

**BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION**

**COMMONWEALTH UTILITIES CORPORATION  
[CUC] REGULATORY MATTERS**

**PETITION FOR FAC STABILIZATION**

**DECISION**

*Background*

By this decision, the Commonwealth Public Utilities Commission [*Commission*] considers, determines and makes rulings on a petition for regulatory action from the electric division of the Commonwealth Utilities Corporation [*CUC*].

The following matter is before the Commission: a Petition to Stabilize the Fuel Adjustment Charge (FAC) Rate Until the Completion of Reconciliation with a filing date of February 28, 2025.

There has been no reconciliation of the FAC [formerly known as the LEAC] charges for the past several years. The FAC tariff, and its ever-changing vacillating rate, has been a point of contention within the various CNMI governmental bodies, and the general public, for several years. It was last modified to its current formulated structure in 2013. Pursuant to past Commission Orders, the FAC collection is required to be reconciled by CUC every six months. As mentioned above, this has not been done since 2014. Accordingly, it is unknown with certainty whether CUC has over-collected or under-collected from its Electric customers for this charge during the last ten years. CUC has indicated that there could be a possibility that it has over collected perhaps as much as Two Million Dollars since 2014.

The Commission has requested CUC on several occasions beginning in 2023 to file a FAC reconciliation report. CUC has not complied with these requests to date. CUC indicates that it did not perform reconciliation studies and file reconciliation reports for several years because during that time the Commission lacked a quorum to do business.

During a Commission business meeting held on February 19, 2025, at which time the Executive Director for CUC was present, the Commission expressed its concern to CUC that the FAC collections had not been reconciled after being requested to do so by the Commission on several occasions. As a result, the Commission stated that it was considering freezing the FAC tariff at the January 2025 rate until CUC performed a reconciliation and reported the results of that reconciliation to the Commission.

The Executive Director responded that CUC has recently contracted with its utility consultants to perform this task, together with a cost-of-service study, and that the FAC reconciliation would not be finalized for several months. The Executive Director further indicated to the Commission that he would not oppose stabilizing the FAC tariff, as suggested by the Commission, subject to the approval of the Board of Directors for CUC.

Thereafter, the CUC, by a vote of the Board of Directors, agreed to the freezing of the FAC tariff at the January 2025 rate until a reconciliation was performed and submitted to the Commission for review.

On February 28, 2025, CUC filed a petition with the Commission requesting the Commission to stabilize the FAC tariff rate at \$0.21119 per kWh, which is the lowest that the FAC rate has fallen to in the last 14 months. CUC further requested that this change become effective March 1, 2025, and last until such time that CUC's reconciliation is completed. The request was made pursuant to the Commission's inherent statutory authority under 4 CMC § 8411(a) to regulate all rates of the utility company. CUC does not have the authority to unilaterally stabilize the FAC rate and therefore requested an Order from the Commission for such relief under its inherent statutory authority pursuant to 4 CMC § 8411(a).

On March 6, 2025, pursuant to due and lawful notice, the Commission conducted a Special Business Meeting at the CEDA conference room on Saipan to consider action on the Petition. The meeting was convened by Acting Chairman of the Commission whereupon CUC presented its comments in support of the Petition to stabilize the FAC rate. After further discussion between the Commissioners and CUC, and after carefully considering the comments and statements made by the representatives of CUC and the Commissioners, for good cause shown and in the exercise of their discretionary powers, the Commissioners, pursuant to their authority under 4 CMC § 8411(a), made the following findings and determinations.

#### ***Findings and Determinations***

1. By Order of the Commission on January 27, 2012 under Docket Nos. 09-1 & 12-01, FAC reconciliations will observe the regulatory principles that: a] ratepayers should be neither over nor undercharged for CUC's actual fuel related expenses, as authorized by the tariff and as approved by Commission order, and b] that future reconciliations, which shall occur each six months, shall follow the protocol set forth in the FAC tariff and shall permit Commission staff, prior to the next FAC review, to examine the underlying data used in present reconciliation and to request an adjustment, if necessary.
2. That periodic reconciliations of the FAC have not occurred for approximately ten years thereby not permitting the current Commission to examine the underlying data used in the FAC formula to determine if an adjustment is necessary.
3. That stabilizing (freezing) the FAC tariff at the rate of \$0.21119 per kWh, effective March 1, 2025, until a reconciliation is conducted by CUC and presented to the Commission for its review and consideration is reasonable, just and necessary. This period is identified as the stabilization period.
4. That during the stabilization period in which the FAC tariff rate is frozen, should the calculations of the fuel costs result in the FAC tariff falling below the initial rate of \$0.21119 per kWh, or any rate adjusted below the initial rate, then the FAC must be

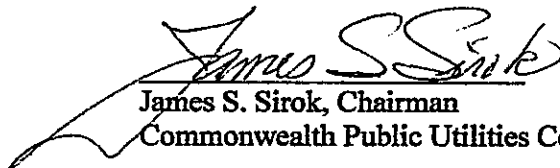
adjusted to the lower rate by CUC under the normal FAC protocol. Thereafter, the FAC tariff rate cannot be increased to a higher rate during the stabilization period.

### ***Ordering Provision***

After careful review and consideration of the above findings and determinations, and based on the Petition filed by CUC requesting the stabilization of the FAC until it performs and reconciliation of its FAC collections and reports the results of that reconciliation to the Commission, and based on the motion duly made seconded, discussed and approved by each of the individual Commissioners present on Saipan at the March 6, 2025 Special Business Meeting, the undersigned Chairman of the Commission, in accordance with the authority given to him during the March 6, 2025 Special Business Meeting by the respective Commissioners present and voting at that meeting, **HEREBY ORDERS THAT:**

1. That the FAC tariff rate shall be frozen at the rate of \$0.21119 per kWh, effective March 1, 2025, until a reconciliation is conducted by CUC and presented to the Commission for its review and consideration. This period is identified as the stabilization period.
2. That should the calculations of the fuel costs result in the FAC tariff rate falling below the initial rate of \$0.21119 per kWh, or to any rate adjusted below the initial rate, during the stabilization period, then the FAC tariff rate must be adjusted by CUC to the lower rate. Thereafter, the FAC tariff rate cannot be increased to a higher rate during the stabilization period.\
3. That the Commission reserves its continuing jurisdiction over this matter.
4. That the Commission's Hearing Examiner, if so required to do so in the future, is authorized to interpret the meaning of this Decision in furtherance of its reasonable and effective implementation.

This Order is dated March 6, 2025, *Nunc Pro Tunc*.

  
James S. Sirok, Chairman  
Commonwealth Public Utilities Commission