

**GOVERNMENT OF THE VIRGIN ISLANDS  
OF THE UNITED STATES**

**PUBLIC SERVICES COMMISSION**

IN RE:

THE VIRGIN ISLANDS WATER AND  
POWER AUTHORITY PETITION FOR  
APPROVAL OF ELECTRIC SYSTEM  
BASE RATE RELIEF

PSC DOCKET NO. 612

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

**THIS MATTER** comes before the Public Services Commission (“Commission”) on the petition of the Virgin Islands Water and Power Authority (“the Authority”) for permanent electric system base rate relief dated November 15, 2012. The Authority sought an electric system base rate relief increase of \$18 million, not inclusive of the \$8.6 million in emergency relief awarded to the Authority on July 16, 2012. The Authority requested the increased rate go into effect on or after July 1, 2013. On March 26, 2013, the Commission appointed the undersigned to serve as Hearing Examiner to preside over the proceedings related to the current petition. The PSC previously appointed Georgetown Consulting Group (“GCG”) to provide technical consulting. See, Docket No. 533. GCG, in turn, subcontracted with Bruce Oliver of Revilo Hill Associates, Inc. to provide additional technical advice regarding the Authority’s rate structure. GCG and Oliver (collectively “the technical consultants”) reported findings and recommendations after reviewing the Authority’s responses to interrogatories and document demands. The technical consultants recommend, among other things, a total revenue increase of \$12,398,730, which included the \$8.6 million in emergency relief.

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Page 2

Upon receipt and review the technical consultants' reports, the Authority amended its request for base rate relief to \$15,685,605.00. In consideration of the relevant issues raised in the petition and report of the technical consultants, the Hearing Examiner reviewed and analyzed all the evidence presented by the Authority and the Commission, including the testimony delivered during the public hearings. After due consideration, the Hearing Examiner recommends that the Commission grant, in part, the Authority's request for relief. In light of all of the evidence presented by both the Authority and the Commission, the Hearing Examiner recommends the Commission award the Authority permanent electric system base rate relief in an amount to be calculated based on the Hearing Examiner's individual findings outlined below. The bases for the Hearing Examiner's recommendations are detailed below.

**BACKGROUND AND PROCEDURAL HISTORY**

***The Virgin Islands Water and Power Authority's Electric and Water Systems***

In 1964, the Virgin Islands Legislature created the Authority as "a public corporation and autonomous governmental instrumentality" with its own governing board for the purpose of developing and maintaining adequate electric and water supply for the people of the Virgin Islands. 30 V.I.C. § 103, *et. seq.* Pursuant to the powers established in the Authority's enabling act, the Authority owns, operates, and maintains electric generation, distribution, and plant facilities hereinafter referred to as the "Electric System". The Authority also owns, operates, and maintains potable water production facilities, hereinafter referred to as the Water System.

The following language from the Standard & Poor's March 12, 2012 report best describes the relationship between the Authority's electric and water systems:

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Page 3

[t]he authority operates the electric and water systems as separate businesses, maintaining separate accounts and financial statements. The two systems are also separately financed, with revenues from the electric system being pledged to repay electric system debt and revenues from the water system being pledged to repay water system indebtedness. **However, the systems share common administrative and operating personnel. The electric system incurs most of the common costs, then bills the water system for its share. In addition, the systems share dual-purpose plants to produce electricity, and water and expenses for these facilities are allocated based on a PSC-approved independent engineering study.**

See, Standard and Poor's March 12, 2012 report attached to the Direct Testimony of Julio Rhymer as WAPA-CFO-4, at p. 5 (emphasis added).

The Authority's Electric System provides electric service to more than 54,000 customers and, by all accounts, operates in a climate of "financial pressures inherent for an island utility that serves a large low income population and a fuel mix dominated by oil . . . ." Moody's Opinion dated March 5, 2012 attached to Direct Testimony of Julio Rhymer as WAPA-CFO-3.

***Docket 602***

On May 31, 2012, the Authority petitioned the Commission for emergency electric system rate relief. The petition for emergency relief was designated as Docket 602. The Authority amended its petition on June 28, 2012.

Through the amended petition, the Authority sought an emergency across-the-board increase of \$16.211 million. The Authority explained the increase was needed due to: 1. continuing increases in fuel costs and a regulatory lag in recovering those costs; 2. extreme slow payment of electric bills by certain Government entities, which has resulted in total receivables due and owing as of May 24, 2012 of approximately \$21.7 million; and 3. an obligation owed to the Electric System by the Water System in

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Page 4

the amount of \$16.6 million as of April 30, 2012. The Authority further explained that all three national rating agencies had expressed concern about the Authority's near term and long term credit worthiness with two of the rating agencies downgrading from investment grade to non-investment grade the Authority's credit rating on outstanding Electric System Revenue Bonds and refunding bonds proposed to be issued. The Authority predicted that "[w]ithout a significant infusion of cash, very soon, the Electric System will descend into financial insolvency and take the Water System down with it."

Testimony of Maurice S. Sebastien dated June 28, 2012.

On July 16, 2012, the Commission granted, in part, the emergency relief requested by the Authority to prevent any harm to the Authority's Electric System and to simultaneously protect the Authority's rate-paying customers. The Commission awarded the Authority's Electric System an interim rate increase in the amount of \$8.6 million to cover the Electric System's Other Post Employment Benefits and to provide the Authority the opportunity to earn a positive net income. The Commission further ordered the Authority to petition for a permanent rate increase no later than November 16, 2012. The Commission explained that the petitions for permanent rate relief would allow for a thorough investigation of the base rate for the Electric System, which the Commission deemed necessary as the most recent base rate investigation occurred in 2009. See, Docket No. 576/2009.

***Docket 612***

The Authority complied with the Commission's order by filing its petition for a permanent rate increase on or about November 15, 2012. The Commission designated the petition as Docket 612 and appointed the undersigned to serve as the Hearing

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Examiner.

The Hearing Examiner convened public hearings in Docket No. 612 from September 6-10, 2013. Members of the public were invited to testify in St. Thomas on September 6, in St. John on September 9, and in St. Croix on September 10. The Hearing Examiner also invited members of the public to submit written testimony. Several rate-payers, including residential and commercial customers, submitted written testimony and verbally testified against the Authority's request for permanent rate relief. After receipt of the transcripts for the hearings, the Authority and the Commission's staff submitted Proposed Findings and Recommendations for the Hearing Examiner's consideration. A complete compilation of all matters considered is found in the accompanying appendix.

**LEGAL STANDARD**

The Legislature of the Virgin Islands statutorily authorized the Commission to set the rates the Authority charges to its customers and further required the Commission to ensure that the rates charged are just and reasonable. 30 V.I.C. § 23(a); *see generally, St. Joseph Stockyards Co. v. United States*, 298 U.S. 38, 50 (1936)(stating “[e]xercising its rate-making authority, the Legislature has broad discretion. It may exercise that authority directly, or through the agency it creates or appoints to act for that purpose in accordance with appropriate standards.”). The Virgin Islands Legislature, however, has provided no formula by which a “just and reasonable” rate is to be determined. *See*, 30 V.I.C. § 1, *et. seq.* The limited statutory guidance provided to the Commission is found in section 41, which states “[t]he provisions of this chapter shall be interpreted and construed liberally in order to accomplish the purposes thereof.” 30 V.I.C. § 41.

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Page 6

Despite the lack of statutory guidance, there are several well-established principles to guide the Commission's exercise of its rate-making authority. See generally, 73B C.J.S. *Public Utilities* § 122 (2013). These principles require the Commission to give effect to all statutory requirements and consider all elements pertinent to the rate case. *Id.* It should determine what is just and reasonable on the basis of the record before it and limit its inquiry to matters raised by the public utility and related to the rates which are the subject of the application. *Id.*

In setting rates, the Commission is not bound by any particular formula or method as the rate-making function "is not a matter of exact science or capable of precise mathematical calculation." *Id.* Rather, the Commission should look to "broad equitable principles" focused more on the impact of the rate and less on principles of theory. *Id.*; see also, *Federal Power Commission v. Hope Natural Gas*, 320 U.S. 591, 602 (1944)(stating "[u]nder the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling."). Therefore, while the Commission should give due consideration to the Authority's accounting methods, those methods do not dictate the Commission's rate-making policy. 73B C.J.S. *Public Utilities* § 122. The Commission's function, rather, involves the making of "pragmatic adjustments" as necessitated by the particular rate case. *Id.*; see also, *Hope Natural Gas*, at 602.

It is similarly well-established that the Commission is not bound by the terms of any stipulation between its staff and the Authority, although those terms are accorded substantial weight. 73B C.J.S. *Public Utilities* § 122. Finally, while the Commission has broad discretion to determine rates that are just and reasonable, established rate-

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Page 7

making principles dictate that the Commission select a proper test year, ascertain a proper rate base, and establish the amount of money required by the Authority to operate. The test year used should be a recent one adjusted and modified as needed given the circumstances of the test period. 29 C.J.S. *Electricity* § 64 (2013). The Commission may also base projections on historical trends. *Id.*

It is under this legal framework that the Hearing Examiner bases her recommendations to the Commission.

**ANALYSIS**

In the current petition, the Authority initially sought an additional increase of \$18 million in annual revenues to pay expenditures associated with: salaries and wages; capital improvement projects; Other Post Employee Benefits (“OPEB”); and debt service, all of which is discussed in greater detail below. The proposed \$18 million increase was in addition to the emergency temporary relief of \$8.6 million granted to the Authority’s Electric System on July 26, 2012. The Authority’s proposal represented a 5.1% increase above current revenues, which equates to an increase of 2.5 cents per kilowatt hour (kWh) and would have added an estimated \$10.00 to the current monthly bill of the average residential customer with an average residential usage of 400 kWh per month. The proposed rate increase, in addition to the emergency increase of July 26, 2012, would have resulted in a total increase of \$26.6 million, which equates to a 37.9% increase in the base rates in effect prior to the request for emergency relief.

In arriving at the proposed rate increase, the Authority used fiscal year ending June 30, 2011 as the test year. The Authority made sixteen (16) adjustments to the fiscal year 2011 figures based on what it characterizes as “known changes” to energy

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Page 8

sales, fuel costs, salary costs, and debt service payments, among other things, to arrive at the total revenue requirement for the Test Year in the amount of \$372,559,638.00. The Authority explained that the revenue requirement, after adjustments, would allow for \$4,300,000.00 in capital improvements and working cash and a DSCR of 2.58 for Senior Bonds and 1.73 for Senior and Subordinate Bonds. While the proposed rate increase appears to be substantial, the Authority's Chief Executive Officer, Hugo Hodge, explains that the Authority "is purposely requesting a level of rate relief that is below the level required for long term financial stability of the Electric System in order to minimize the rate increase to our customers at this time." Direct Testimony of Hugo Hodge, at p. 15, line 8-10.

The technical consultants reviewed and evaluated the petition, WAPA's internal financial reports and other documents, and issued a report containing alternative proposals and recommendations regarding the Authority's proposed rate increase.<sup>1</sup> In doing so, the consultants challenged the Authority's methodology, including the various adjustments to the test year period and use of the fiscal year 2011 as a test period, questioned the Authority's decision to not seek a rate increase since the 2009 request, and argue that the Commission cannot rely on the Authority to undertake what it represents it will do with the revenues collected from the increased rates. The technical consultants also employ a different methodology by using the pre-emergency relief rates as a starting point and basing their revenue requirement on operating expenses with an appropriate allowance to cover debt service. As a result, the technical

---

<sup>1</sup> The technical consultants also considered information not provided to or made available by the Authority or the Commission staff and consultants in this docket, including responses to discovery requests, information gleaned from participation in related proceedings current and past, and their experience in regulation and discussions with the Authority's personnel.

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

consultants make the following recommendations:

1. A total base rate increase of \$12.25 million from pre-emergency relief rates, which is based on a total non-fuel revenue requirement of \$85.087 million of which \$41.9 million should be collected in surcharges.
2. To treat the OPEB, self-insurance and Payment in Lieu of Taxes (“PILOT”) expenses as above the line expenses.
3. The current RFM surcharge should be expanded to include all other maintenance required by the Authority for a total surcharge revenue of \$33.57 million. The Authority should continue to deposit the surcharged maintenance revenues in a separate account with withdrawals made for maintenance purposes only and should provide a detailed maintenance plan to the Commission no later than February 15, 2014. The Commission should review the surcharge on a quarterly basis.
4. To continue the line loss reduction surcharge in the amount of \$1.74 million to be reviewed by the Commission on a quarterly basis.
5. The OPEB requirement should be based upon the actuary’s cost projection for fiscal year 2014 in the amount of \$ 5.269 million. The OPEB revenues should be collected as a surcharge with revenues to be maintained in a separate account. The Commission should review reports regarding the separate account on a quarterly basis.
6. The self-insurance revenue of \$1.31 million should be collected as a surcharge and maintained in an already established separate account. The Authority should provide a study to determine the floor and cap of the fund by February 15, 2014.
7. The Authority should provide a detailed capital program financing plan no later than April 1, 2014 with any specific rate actions to be proposed by the Authority.
8. The Commission to adopt and send a Resolution to the Legislature of the Virgin Islands urging the full funding of utility bills for all departments of the Government. The Authority to provide every governmental agency with an estimate of their utility consumption and charges every year prior and prior to the finalization of those agencies’ budgets.
9. To reject the Authority’s proposal to include in the total revenue requirement the carrying costs associated with deferred fuel costs and accounts receivable for government agencies and instrumentalities.

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

10. To implement the management audit that was agreed to in the Global Stipulation dated June, 2009 in Docket 576 with the requirement that the RFP be issued no later than April 1, 2014.
11. To increase the miscellaneous service charges by 35%.
12. To reject the Authority's inclusion of IDE personnel costs in the total revenue requirement.
13. To offset the cost of the cost of service and alternative energy studies by the \$360,000.00 reserve previously set aside for the load research study.
14. To reject the inclusion of the debt service costs associated with the RUS loan and any future loans in the total revenue requirement for the current base rate case.
15. The Authority be required to investigate and report to the Commission within 180 days, its assessment of ratemaking alternatives for reducing the impact of fluctuations in power usage on its annual base rate revenue.

The technical consultants explain that their proposal allows for \$4.3 million to be dedicated to capital improvements and debt coverage as follows: 2.02 for senior debt; 1.66 for subordinate debt; and 1.25 for senior and subordinate debt combined.

After considering the consultant's findings and recommendations, the Authority ultimately agreed to the following recommendations and made the following adjustments:

1. The Authority reduced its proposed base rate increase to \$15,685,605.00.
2. To treat the OPEB, self-insurance and Payment in Lieu of Taxes expenses as above the line expenses.
3. The OPEB revenue to be collected as a surcharge.
4. To continue the line loss reduction surcharge.
5. Maintenance revenues to be collected as a surcharge.
6. The self-insurance revenue to be collected as a surcharge with a floor and cap to be determined by a study.

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

7. To conduct a management audit consistent with the terms of the technical consultants' recommendation.
8. To increase miscellaneous service charges by 35%.

The Authority rejected all other recommendations made by the technical consultants. The Hearing Examiner will address the agreed upon recommendations ("stipulations") and remaining areas of dispute in the sections below.

**I. The Hearing Examiner Accepts and Recommends Approval of the Stipulations.**

The Hearing Examiner gives substantial weight to the recommendations agreed upon by the Authority and the technical consultants. Accordingly, the Hearing Examiner recommends the Commission approve the following recommendations agreed to by the parties:

1. To treat the OPEB, self-insurance, and PILOT expenses as above the line expenses.
2. To reduce the Authority's adjustment showing a decline in kWh consumption to \$320,100.00.
3. To collect revenues associated with OPEB, line loss reduction, self-insurance and maintenance as a surcharge.
4. To increase the miscellaneous service charges by 35%.
5. To achieve funding for capital improvements in the amount of \$4,318,418.00.
6. To implement the management audit that was agreed to in the Global Stipulation dated June, 2009 in Docket 576 with the requirement that the RFP be issued no later than April 1, 2014.

The Hearing Examiner addresses the remaining areas of dispute.

**II. Method of Determining OPEB Costs**

The Authority and the technical consultants disagree on the best way to determine

the projected amount of OPEB costs. While both agree to use the estimated costs as determined by an actuary, they differ on the methodology used to determine the costs to be included in the revenue requirement. The technical consultants recommend the OPEB revenue be based on the actuary's cost projection for fiscal year 2014, while the Authority recommends the revenue be based on the average of the actuary's projections for fiscal years 2014, 2015, and 2016. The OPEB costs based on the average of the three years is \$5,091,030.00 while the 2014 projected cost is \$4,912,906 such that rate-payers in 2014 may pay up to \$178,124.00 more in OPEB costs than costs actually incurred. On the other hand, the projected OPEB revenue for 2016 is \$5,392,944.00, such that the Authority may recover \$301,944.00 less than OPEB costs actually incurred. In balancing the interests of the rate-payers against those of the Authority and remaining mindful that the focus of the Commission's decision is on the impact of the proposed rate as opposed to precise mathematical considerations, the Hearing Examiner recommends the OPEB revenue requirement be based on the average of the actuary's projections for fiscal years 2014, 2015 and 2016 with the appropriate adjustment for the Electric System's portion of those expenses at 86% of the averaged amount.

**III. Use of Load Study Reserve to Offset Costs Associated with Cost of Service, Depreciation and Generation Planning Studies.**

The Authority seeks \$331,700.00 per year in revenues to fund the expenses associated with performing cost of service and alternative energy studies. The Authority and the technical consultants, both, agree that the studies are necessary and prudent to gather the information necessary to make the Electric System more efficient and the

charges paid to rate-payers more accurate and reflective of the service provided. The technical consultants propose to offset the cost of the studies with revenues that were reserved to fund a load research study. The technical consultants recommend that the \$360,000.00 reserve be amortized over three years thereby reducing the annual revenue requirement of \$331,700.00 to \$211,700.00. The Authority maintains that the reserve for the load research study be used for load research activities, which is contradictory to its earlier testimony that it should be permitted to conduct the cost of service study instead of the previously agreed to load research study. The Hearing Examiner agrees with the recommendation of the technical consultants.

#### **IV. Inclusion of the Debt Service for the RUS loan and Future Loans**

The Authority seeks to include as a revenue requirement the debt service associated with a Rural Utilities Service loan and loans the Authority intends to pursue but has not yet obtained. The Authority calculates the debt service associated with these loans as \$2,584,343.00. The technical consultants recommend against including the debt service associated with these loans as a revenue requirement because the details regarding the loans are unknown and debt service associated with these loans will not be recorded in fiscal year 2014. The technical consultants recommend the Authority petition the Commission for a rate increase involving the debt service of any future loans, including the RUS loan, when the loans are issued. The technical consultants further recommend an expedited review of those petitions by the Commission and that the Commission develop a procedure for expedited review of petitions of that nature. The Authority rejects the recommendation and argues that although the dates of loans have not been set, it is currently moving forward with expenditures associated with the

projects to be funded by those loans.

After the public hearings concluded, the Authority submitted to the Hearing Examiner for consideration a RUS loan guarantee commitment in the amount of \$13,000,000.00 from the RUS to the Authority dated September 24, 2013. The commitment makes clear that the advancement of proceeds pursuant to the loan agreement is contingent upon, among other things, the Authority's submission of "evidence, in form and substance satisfactory to the Administrator, that the Virgin Islands Public Service Commission has approved rates for VIWAPA that are sufficient to ensure payment of the 'B8' guaranteed loan and to meet the financial coverage ratios outlined in the RUS Loan contract and the electric system bond resolution." The Hearing Examiner admits the loan commitment into evidence and recommends inclusion of the debt service ratio associated with the RUS loan in the revenue requirement. The Hearing Examiner therefore instructs the Authority to provide the Commission with the RUS Loan contract so that both the Authority and the Commission can calculate the debt service requirement associated with the RUS loan.

With regards to future loans, the Hearing Examiner further determines that it would be unjust and unreasonable to pass on to rate-payers the costs associated with debt that has yet to be incurred. Given the testimony from the public that the current charges are expensive and burdensome, it would be unjust to increase the already high cost of service with costs the Authority anticipates it will incur before it actually incurs it. The Hearing Examiner therefore recommends the Commission reject the inclusion of debt service costs associated with future loans that have yet to be undertaken by the Authority.

**V. Inclusion of Carrying Costs for Government Accounts Receivable.**

The Authority seeks to pass on to rate-payers the carrying costs of the accounts receivable due and owing by Government agencies and instrumentalities. The carrying costs total \$241,741.00 and would be passed on to rate-payers across-the-board. The technical consultants recommend against passing on the costs to rate-payers. They argue that requiring rate-payers who pay their bills to also pay for charges related to the Government entities who are not paying their bills is patently unfair. The technical consultants assert that rate-payers are already absorbing the costs associated with the late payments in the form of deferred maintenance and should not be penalized a second time by having to assume the financing costs related to the Government accounts receivable.

The Government accounts receivable totaled \$21.4 million as of September, 2012.

The Hearing Examiner agrees with the technical consultants and finds that it would be unreasonable for all rate-payers to bear the cost of the Government's untimely payment of sums owed to the Authority. Members of the public testified to the already high costs of their electricity bill and the attempts they have made to reduce their energy consumption. There has been no testimony that Government agencies have undertaken similar efforts to reduce their energy consumption. To saddle the already overburdened rate-payers with these carrying costs would be unjust. The Hearing Examiner therefore recommends the Commission reject the inclusion of the carrying costs associated with the Government accounts receivable and support any effort by the Authority to obtain timely payments from the various Government agencies and instrumentalities.

**VI. Inclusion of Carrying Costs for Deferred Fuel Balance.**

The Authority also seeks to pass on the rate-paying customer the carrying costs for deferred fuel totaling \$2,257,000.00. The Authority does not seek to pass on the actual cost of the deferred fuel as it recovers that cost through the Levelized Energy Adjustment Clause (“LEAC”). Rather, the Authority seeks to charge rate-payers for the costs associated with financing the deferred fuel balances. That Authority states that “there is no other way to recover those costs.” Rebuttal Testimony of Craig R. Shepard, at p. 13, lines 1-2.

The technical consultants maintain that deferred fuel costs, including the carrying costs associated with those costs, is financed through long term debt and the GO Note and are therefore included in the base rates and the LEAC. To the extent that any carrying costs associated with the deferred fuel balances are not covered in the rates, the technical consultants recommend the Authority seek payment of those carrying costs in Docket 289, also referred to as the “LEAC Docket”. The Authority did not otherwise indicate whether it agreed to seek payment of the carrying costs in the LEAC docket.

The Hearing Examiner recommends that the carrying costs associated with the deferred fuel balance should be addressed in the same docket as the deferred fuel balance to which it applies and not included in the increase in rates to be awarded in the current base rate case.

**VII. Inclusion of IDE Personnel Costs**

In light of the Water System’s transition from the use of Israeli Desalination Units (“IDE”) to reverse osmosis to produce water, the Authority anticipates the transfer of

fifteen (15) to eighteen (18) IDE personnel from the Water System to the Electric System. The Authority includes in its base rate revenue requirement the amount of \$2,154,573.00 to cover the increased personnel costs and, in response to the technical consultant's report, recommends that amount be reduced by a 7% attrition rate for a total IDE personnel cost of \$2,003,757.00. The Authority admits that approximately forty-three (43) employees per year leave the Authority. The technical consultants maintain that there is enough attrition within the Electric System itself to cover the costs associated with the transfer of employees from the Water System to the Electric System. The Hearing Examiner agrees.

The current base rates are based, in part, on the cost of personnel. The Electric System seeks to increase the cost of personnel by fifteen (15) to eighteen (18) employees, although more than fifteen (15) to eighteen (18) leave the Electric System on an annual basis. The Authority has not provided any explanation for its desire to include the IDE personnel as an additional cost to the Electric System in light of the Authority's normal attrition rate. As such, the Hearing Examiner recommends the Commission reject the inclusion of costs associated with the transfer of IDE personnel from the Water System to the Electric System.

**VIII. Use of the Most Recent Information to Determine Existing Debt Service Costs.**

The Authority uses a fiscal year 2014 projection contained in 2012 Official Bonds Statement to establish the existing debt service costs for its test year period. The technical consultants advocate the use of more recent data provided by the Authority in its fiscal year 2013 budget and its subsequent filings with rating agencies.

It is a well-established principle that the test year, which supports the basis for a rate increase must be a recent one adjusted as needed given the circumstances. The rate increase is applicable to future rates and should include the most up-to-date information. The Hearing Examiner therefore recommends the Commission use the debt service cost as stated in the Authority's fiscal year 2013 budget.

**IX. The Authority's Objection to Treatment of Revenues Collected for Maintenance.**

The Authority objects to the technical consultants' recommendation that revenues collected for maintenance be kept in a separate, restricted account and that the Authority should provide a detailed maintenance plan by February 15, 2014. The Authority further rejects the recommendation that the maintenance surcharge be subject to quarterly reviews by the Commission to include an assessment of performance of the plants and the conduct of performance improvement and capital improvement projects.

Essentially, the technical consultants recommend the Commission use its rate-making power to ensure the Authority embarks and execute an aggressive maintenance program that will result in the more efficient and affordable provision of power to rate-payers thereby resulting in improved services and lower rates. While the technical consultant's intention is laudable, it encroaches upon the autonomy of the Authority to determine the manner in which it will provide maintenance to the Electric System. The Hearing Examiner recommends an annual review of the maintenance surcharge be conducted in the manner provided in 30 V.I.C. §§ 8 and 19 whereby the Commission may request reports from and pose questions to the Authority regarding its operations. The Commission will then determine whether the maintenance surcharge should

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

continue, be discontinued or be modified based on the information presented by the Authority. Moreover, as the maintenance of the Electric System is day-to-day function of the Authority, the Hearing Examiner recommends the revenues collected for maintenance be maintained and administered by the Authority in the same manner it maintains and administers normal operational revenues.

**WHEREFORE**, and for the foregoing reasons, the Hearing Examiner submits the following recommendations to the Commission:

1. The Electric System be granted a permanent rate increase, consistent with the above recommendations, to increase the existing base rate revenue of \$70,445,000.00 in the manner provided below:
  - a. To treat the OPEB, self-insurance, and PILOT expenses as above the line expenses;
  - b. To re-establish the self-insurance fund by collecting annual revenue \$1,310,210.00 through the use of a surcharge;
  - c. To increase the miscellaneous service charges by 35%;
  - d. To base the OPEB revenue requirement on the average of the actuary's projected costs for fiscal years 2014, 2015 and 2015 with the appropriate adjustment for the Electric System's portion of the averaged amount;
  - e. To offset the expenses associated with the cost of service and alternative energy studies with the funds previously reserved for load research in the amount of \$360,000.00 amortized over three (3) years, which results in a revenue requirement of \$211,700.00;
  - f. To include the debt service costs associated with the RUS loan in the revenue requirement;
  - g. To achieve a funding level of \$4,318,418.00 for capital improvement projects; and
  - h. To use the fiscal year 2013 budget debt service cost in setting the total revenue requirement.
2. To implement the management audit that was agreed to in the Global Stipulation

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Page 20

dated June, 2009 in Docket 576 with the requirement that the RFP be issued no later than April 1, 2014.

3. The require the Authority to provide a study by February 15, 2014 to determine the floor and cap of the self-insurance fund.
4. To provide procedures and processes allowing for the expedited review for petitions for base rate increases based on the debt service costs associated with future loans undertaken by the Authority.

DATED: October 30, 2013

BY: \_\_\_\_\_

  
Kye Walker, Esq.  
Hearing Examiner

**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 30, 2013, I electronically and/or manually served the Commission staff's "**REPORT AND RECOMMENDATIONS OF THE HEARING EXAMINER**" IN PSC Docket No. 612 & 613 on the following:

:

**WAPA Counsels**

Lorelei M. Farrington, Esq.  
Sam Hall, Esq.  
Marie Thomas-Griffith, Esq.

[farringt1m@viwapa.vi](mailto:farringt1m@viwapa.vi)  
[sam@hallgriffith.com](mailto:sam@hallgriffith.com)  
[mtg@hallgriffith.com](mailto:mtg@hallgriffith.com)

**WAPA Officials**

Hugo Hodge, Jr.  
Akeyla Clarke  
Joan P. Foy  
Julio Rhymer

[hodgehv@viwapa.vi](mailto:hodgehv@viwapa.vi)  
[Akeyla.clarke@viwapa.vi](mailto:Akeyla.clarke@viwapa.vi)  
[foyp@viwapa.vi](mailto:foyp@viwapa.vi)  
[julio.rhymer@viwapa.vi](mailto:julio.rhymer@viwapa.vi)

**PSC Counsels**

Tanisha Bailey-Roka, Esq.  
Boyd L. Sprehn, Esq.

[tbail002@aol.com](mailto:tbail002@aol.com)  
[blsprehn@wattsbenham.com](mailto:blsprehn@wattsbenham.com)

**PSC Consultants**

Jim Madan  
Edward Margerison  
Larry Gawlik

[jammadan@gmail.com](mailto:jammadan@gmail.com)  
[ermargerison@gmail.com](mailto:ermargerison@gmail.com)  
[lrgawlik@aol.com](mailto:lrgawlik@aol.com)

With courtesy copies to:

**Hearing Examiner**

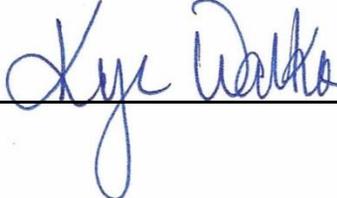
Kye Walker, Esq.

[kye@thewalkerlegalgroup.com](mailto:kye@thewalkerlegalgroup.com)

J. Daryl Dodson, Esq.  
Tisean Hendricks  
Jamil Springer  
Mike Dirmeier  
Sandra Setorie

[jddodson@surfvi.com](mailto:jddodson@surfvi.com)  
[tisean001@msn.com](mailto:tisean001@msn.com)  
[jamilspringer@hotmail.com](mailto:jamilspringer@hotmail.com)  
[mdirmeie@gmail.com](mailto:mdirmeie@gmail.com)  
[ssetorie\\_psc@yahoo.com](mailto:ssetorie_psc@yahoo.com)

I further certify that a copy of the information and Certification have been entered into the record in this Docket.

  
\_\_\_\_\_