

**BEFORE THE
VIRGIN ISLANDS PUBLIC SERVICES COMMISSION
DOCKET NO. 612**

**REBUTTAL TESTIMONY OF JULIO A. RHYMER
ON BEHALF OF
THE VIRGIN ISLANDS WATER AND POWER AUTHORITY
REGARDING THE PETITION FOR PERMANENT RATE RELIEF
FOR THE ELECTRIC SYSTEM**

JULY 31, 2013

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A.** My name is Julio A. Rhymer and my business address is: Virgin Islands Water and
3 Power Authority, 9720 Estate Thomas, St. Thomas, Virgin Islands 00802.

4 **Q. WHAT IS YOUR OCCUPATION?**

5 **A.** I am the Chief Financial Officer of the Virgin Islands Water and Power Authority
6 (“WAPA” or “Authority”).

7 **Q. HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE TESTIMONY**
8 **FILED BY GEORGETOWN CONSULTING?**

9 **A.** Yes.

10 **Q. DO YOU HAVE ANY CONCERNS RELATIVE TO GEORGETOWN’S**
11 **TESTIMONY IN CONNECTION WITH THE AUTHORITY’S ELECTRIC**
12 **BASE RATE PROCEEDING?**

13 **A.** Yes I do.

14 **Q. WHAT IS YOUR CONCERN?**

15 **A.** There are several aspects of PSC Technical Consultants’ (Georgetown Consulting
16 Group, “GCG” or “Georgetown” herein) testimony that I find troubling as the Chief
17 Financial Officer of the Authority. First, the Authority has previously informed
18 Georgetown Consulting that it has submitted an application for a loan from RUS in
19 order to fund the development of an Advanced Metering Infrastructure (AMI). *See,*
20 *Hugo Hodge Direct Testimony at p. 13.* The Advanced Metering Infrastructure is a
21 critical part of the Authority’s efforts to stem the tide of transmission and distribution
22 losses. The Authority is in the process of securing approvals for the RUS loan and
23 bond financing and seeks recognition of the debt service requirements of the Rural

1 Utilities Service loan in the electric base rates. *See, Direct Testimony of Craig*
2 *Shepard, Exhibit CS-2.* Despite the Authority's disclosure of the requirements
3 necessary to address its debt service obligation on the loan from the Rural Utilities
4 Services, and notwithstanding the several hundred questions propounded on the
5 Authority in discovery in this proceeding, Georgetown did not seek any information
6 from the Authority relative to the RUS Loan. It was not until the Authority and the
7 PSC Consultants met together in informal discussions during the week of July 8, 2013
8 in furtherance of the issues raised in the electric and water base rate proceedings that
9 Georgetown, for the time, sought any information regarding the Rural Utilities
10 Service ("RUS") loan, the approvals, and the project plan. As of July 26, 2013, the
11 Authority has received all preliminary approvals on its application for the RUS loan
12 and the application has been sent to Washington, DC for final approvals. It is
13 anticipated that the loan will be funded in the Fall of 2013. Based on the anticipated
14 funding of the RUS loan in the near term, it is reasonable and prudent for the
15 Authority to expect and receive consideration of the RUS loan within the current
16 electric base rate proceeding in order to avoid burdensome and unnecessary expenses
17 associated with a separate mini-rate proceeding just to evaluate the need for a
18 supplemental adjustment to the electric system's rates for purposes of the RUS Loan.
19 Georgetown, at page 25 of their testimony says that details of the RUS loan and the
20 future bond financings "do not rise to the level of certainty" and should therefore be
21 excluded from the base rate proceeding. I could not disagree more. The RUS loan is
22 in the final stages of approval and is precisely the type of regular recurring expense of
23 the Authority that is contemplated to be covered by the electric base rates. The RUS

1 loan will be amortized over a period of thirty years at an interest rate of four (4)
2 percent, dependent on rates when the loan is approved. This principal and interest on
3 this loan, which will be treated similar to a bond issuance, will be repaid over a period
4 of thirty years and is fairly typical in any utility such that it is expected to be included
5 in base rates.

6 **Q. WHY IS THE ADVANCED METERING INFRASTRUCTURE (AMI)**
7 **IMPORTANT TO THE AUTHORITY?**

8 **A.** Based on the 2011 T&D System Loss Study Update, AMI and several system
9 improvement projects (including substation construction, feeder balancing and
10 transformer resizing) were proposed to reduce transmission and distribution system
11 losses. The study indicated that nearly 30% of all system losses are non-technical,
12 costing VIWAPA over \$4 million per year. Although not all of the non-technical losses
13 can be eliminated, the implementation of AMI could make a significant impact and avoid
14 issues such as administrative errors in metering and billing systems, meter inaccuracies,
15 meter tampering, theft, and others. Conservatively assuming that the Authority can
16 address 90% of the non-technical losses through AMI functionality such as tamper
17 alarms, remote connect/disconnect, pay-as-you-go, etc., AMI could provide a savings of
18 over \$3.6 million/year. Additionally, the implementation of an AMI system would
19 provide the infrastructure to support conservation and reliability programs, including but
20 not limited to: Outage Management (OMS), Distribution Automation (DA), Conservation
21 Voltage Reduction/Voltage Optimization (CVR/VO), Load Management (LM), Meter
22 Data Management System (MDMS), etc. With MDMS, more accurate transformer
23 loading can be determined from aggregated customer metering at various time

1 intervals. This would enable VIWAPA to identify both overloaded and under-loaded
2 transformers more efficiently for the proposed transformer re-sizing program. These
3 programs can result in increased reliability and efficiency of VIWAPA's electric system,
4 significantly reducing system losses and maximizing kWh sales.

5
6 **Q. WHAT IS THE IMPACT OF NOT INCLUDING THE DEBT SERVICE**
7 **COVERAGE FOR THE RUS LOAN AND THE FUTURE BOND FINANCING**
8 **IN THE AUTHORITY'S ELECTRIC BASE RATES?**

9 A. Georgetown's recommendation of not including the RUS Loan and the future
10 bond financing in the Authority's electric base rates would mean that the Authority
11 would be without the necessary revenues to address the debt service coverage on those
12 loans. Georgetown's recommendation that the Authority can simply come back to the
13 PSC at a future time to secure an adjustment of the electric base rates to cover the RUS
14 Loan and the future bond transaction is a cost-prohibitive, time-consuming and an utterly
15 inappropriate way to proceed. The schedule in this rate proceeding in Docket 612 will
16 have the new electric base rates going into effect in October 2013. Georgetown's
17 recommendation that the Authority come back to the PSC at a future time for rate relief
18 related to the RUS loan or bond financing ignores the documentation before them that
19 establishes that the RUS loan will be funded in the Fall of 2013, virtually at the same
20 time as the implementation of the new electric base rates. Scheduling another
21 proceeding at a later date adds more expense and defeats the purpose of a comprehensive
22 base rate case. This would be a waste of resources to the Authority. If forced to
23 participate in another base rate filing, as is the recommendation of the PSC Consultants,

1 where the rate proceeding will typically last approximately 8 months to 1 year, the
2 present low interest rates are likely to increase from the present 4 % on the RUS loan.
3 As always interest rates will fluctuate but the general consensus is that rates will trend
4 higher over the next year. These expenses are known, actual expenses. They are not
5 speculative and should be able to be captured within the current rate proceeding. The
6 mechanism recommended at pages 24-25 of Georgetown's testimony ensures that the
7 Authority is forced to expend untold tens of thousands of dollars in assessments to cover
8 fees to Georgetown and additional sums for its own consultants when the RUS loan is
9 nearing completion now, the electric rate proceeding is in progress now, and all of the
10 documentation necessary to appraise the PSC consultants regarding the nature, purpose,
11 amount, and debt service requirements of the RUS loan are before Georgetown now. We
12 urge that the PSC reject Georgetown's recommendations to engage in a secondary rate
13 proceeding just to address the RUS loan and any future bond financing, as such a
14 proceeding would be a waste of regulatory resources and a burden to the Authority and
15 its ratepayers. Bond financing is a regular, recurring base rate cost of an electric utility,
16 like insurance, salaries, etc. It therefore should be projected and allowed now in base
17 rates and not be decided at a later date at still another PSC hearing.

18 **Q. HAS THE AUTHORITY RECEIVED ANY INDICATIONS FROM**
19 **THE RATING AGENCIES WITH RESPECT TO THE PSC'S REGULATORY**
20 **IMPACT ON ITS COST OF BORROWING?**

21 **A.** Yes we have. The rating agencies have always mentioned several factors as
22 being key to the Authority's ratings, one of them being favorable rulings by the PSC to
23 support operations or any new debt. However, in general, regulation by the PSC is

1 regarded as being negative by all three rating agencies. The rating agencies and potential
2 investors would not want to depend on the PSC approving rates after rating
3 discussions/financings. If this were to happen, the Authority should expect less than
4 favorable outcomes from the rating agencies and more costly financings. Provided below
5 are a few quotes from recent rating agency reports for the Authority:

6 (1) “if management's proposed restructuring and planned rate increases are
7 executed, and the authority can balance operating expenses with operating
8 revenues and improve liquidity, we could revise the outlook to stable.” –

9 *Standards & Poors June 11, 2013*

10 and

11 (2) “The associated urgency for an increase in electric rates makes the historically
12 supportive rate regulation by the PSC an even more important rating factor going
13 forward.” - Moody’s March 5, 2012

14 Accordingly, rejection of Georgetown’s recommendation to exclude the debt service
15 coverage for the RUS Loan and the new bond financing is necessary to ensure that the rating
16 agencies of the PSC’s supportive regulation going forward.

17
18 **Q. DO YOU HAVE ANY OTHER CONCERNS REGARDING**
19 **GEORGETOWN’S TESTIMONY?**

20 **A.** Yes. Georgetown has recommended to the PSC that in calculating the rate increase
21 for the Electric System it contemplate that the Electric System receive the very \$10
22 million loan which it has recommended that the Water System not be allowed a sufficient
23 rate increase to repay. In addition, Georgetown has recommended to the PSC that it not

1 provide any rate relief to the Authority at this time related to its need to borrow money in
2 the bond market in order to undertake capital projects. It recommends instead that the
3 PSC defer allowing a rate increase to the Authority related to its need to issue bonds
4 during the next three to five years. WAPA asks the PSC to reject both recommendations.

5 **Q. CAN YOU ELABORATE ON YOUR POSITION RELATIVE TO**
6 **GEORGETOWN' S RECOMMENDATION OF DISALLOWANCE OF THE \$10**
7 **MILLION?**

8 **A.** It is of grave concern to me that the PSC Technical Consultants are
9 recommending disallowance of an aggregate of \$12.5 million in expenses on the part of
10 the Electric System. I will discuss in detail why the recommendation for a disallowance
11 is an extraordinarily irresponsible act on the part of the consultants, and why given the
12 historical context of the Authority's actions in allowing for the intra-company
13 transaction, the recommendation is out of line. Regrettably, I will also discuss below the
14 inappropriate means by which Georgetown seeks to leverage their recommendation into
15 an attempt to get the Authority to accede to their demands of giving up the statutorily-
16 derived, and judicially recognized authority to manage its own affairs.

17 **Q. CAN YOU ELABORATE ON WHY THIS IS OF CONCERN TO YOU?**

18 **A.** In my direct testimony, Exhibit JAR-4, Line 6, I recognized that there is a
19 balance due to the Electric System of a little over \$10 million, which balance has accrued
20 over a period of years, and which the Authority proposes to recover over a six-year
21 period. Georgetown, an entity that does not have to rely on the electric generating energy
22 that the Authority provides to the ratepayers in our community, and which would not feel
23 any of the devastating impact that its recommendation for disallowance would have on

1 the Authority, its ratepayers or the community at large, has recommended the PSC not
2 allow current funding of the entire \$12.5 million: \$10 million of which is an intra-
3 company loan, which GCG deems an expense for a prior period which is unrecoverable
4 in this rate case (*See GCG Water Testimony at p. 16, 22*), and \$2.5 million which is a
5 line of credit (*See GCG Water Testimony at p. 22*). This position is simply not acceptable
6 to the Authority.

7 **Q. CAN YOU EXPLAIN HOW THE \$10 MILLION DOLLARS CAME**
8 **ABOUT?**

9 **A.** The Technical Consultants are aware that the Authority utilizes an allocation
10 mechanism internally in addressing the expenses and receipts of the two systems at the
11 Authority – the Electric System and the Water System. The historical relevance of the
12 allocation mechanism is well established in documentation on file at the PSC.
13 Essentially, the expenses of the Water System are paid initially by the Electric System
14 and then reimbursed by the Water System. Over a period of time, due to inadequate rates
15 of the Water System, the Water System lagged behind in paying back the Electric System
16 when those allocated expenses were due. It is important to note that \$7 million of the \$10
17 million loan to the Water System accrued through 2009, prior to the 2009 rate
18 proceeding. An additional \$3 million accrued from 2009 to the present. The intra-
19 company loan transactions were prudent. The \$10 million loan was a result of an
20 allocation of expenses to the Water System that yielded results that were unanticipated
21 and the Authority expected to correct over time upon the filing of a rate case. That filing
22 has now occurred and it is the desire of the Authority to address this issue and to adjust
23 its allocation methodology to make sure this does not happen again.

1 **Q. PLEASE DISCUSS IN GREATER DETAIL WHAT IS THE EFFECT**
2 **TO THE AUTHORITY IF THE \$10 MILLION IS DISALLOWED AS**
3 **RECOMMENDED BY GEORGETOWN**

4 **A.** If the \$10 million is disallowed, it will be written off in the current fiscal year and it is
5 reflected as a loss on the Authority's books. Thereafter, it will no longer be reflected in
6 the Authority's books as an asset of the Electric system, a particularly devastating impact
7 because of the impact on debt service coverage.

8 Currently, the \$10 million is reflected on the books of the Electric System as an
9 asset, however disallowance of the \$10 million and the \$2.5 million means that the entire
10 \$12.5 million dollars would have to be written off by the Authority and could no longer
11 be referenced on the books as an asset of the Electric System, but rather as an expense.
12 The immediate implication of disallowance is the current recognition of the entire \$12.5
13 million on the Authority's books at one time. It is an extraordinary entry in accounting
14 terms for a \$12.5 million asset to be reclassified, at one time, as an expense. The
15 Authority would have to explain to its bondholders why disallowance is necessary. There
16 would be mistrust by the bond market or the banks with whom the Authority's does
17 business. The Authority would be forced to restate its financial statements for the past
18 ten years representing the period that the intra-company loan existed on its books. The
19 restatement of financial statements is a very time consuming and costly event, with
20 ramifications that extend beyond the recasting of the financial footprint for the Authority.
21 The risks involved in restating the Authority's financial statements, to the extent of the
22 disallowance recommended by Georgetown could effectively bankrupt the Authority.
23 The risks involved in re-stating the Authority's financial statements for a ten-year period

1 can result in a downgrade of the Authority's bonds, not to exclude a downgrade to junk
2 bonds. The Authority's ability to secure future financing would be significantly higher
3 in cost or simply not available. Finally, there could be a call on the Electric Systems'
4 bonds because of the negative credit rating. We are unclear why Georgetown, a
5 seasoned professional organization, would offer a recommendation which has the
6 potential impact of resulting in a call on the Electric System's bonds, a particularly
7 catastrophic event for the Authority, and one which would render the Authority bankrupt.
8 Simply put, disallowance is not in the interests of the Authority or its ratepayers.

9 **Q. IS GEORGETOWN'S POSITION RELATIVE TO THE TREATMENT OF**
10 **THE \$10 MILLION LOAN CONSISTENT IN ITS TESTIMONY?**

11 **A.** No. Even as it chides the Authority for not providing it with complete
12 information, the PSC Technical Consultants take inconsistent approaches in the Water
13 System rate case and in the Electric System rate case regarding the treatment of the \$10
14 million loan and the \$2.5 million line of credit. The position taken on the Electric side is
15 correct and agrees with WAPA's position. The position taken on the Water side is
16 wrong. The loans should be recognized as valid real world loans and their allocation and
17 recovery are in accordance with standard regulatory practice in connection with the
18 allocation of costs between two independently regulated systems of one public utility as
19 approved by the Authority's Governing Board.

20 **Q. WHAT IS THE IMPACT OF GEORGETOWN'S RECOMMENDATION FOR**
21 **DISALLOWANCE OF THE \$10 MILLION ON THE ELECTRIC SYSTEM'S**
22 **RATES?**

1 A. The PSC's consultants have recommended to the PSC disallowance of a base
2 rate increase sufficient to allow the Water System to repay a \$10 million loan owed to the
3 Electric System by the Water System, and to allow the Water System to repay its use of
4 \$2.5 million from its line of credit. If the loans are disallowed, the Electric System will
5 then need even more rate relief to cover the cost of \$10 million in additional bonds. This
6 incremental rate relief should be added to what has already been requested in the Electric
7 rate case. The Authority would need more rate relief if the loans are disallowed because
8 the Authority factored in the repayment of the loans in order to cover the capital projects.
9 Without the capital projects being funded, the reliability and efficiency of the Authority
10 continues to be negatively impacted.

11 As we have said in the Water System Rebuttal Testimony, we do not believe that
12 Georgetown's recommendations offer a fiscally responsible approach, or an approach
13 which is in the best interests of the Authority and its ratepayers. The Authority urges the
14 Commission to reject this approach for the following reasons. The Electric System's
15 short-term, interest-free loan to the Water System was made to it by the Electric System
16 without the delay and expense associated with going to a commercial lender or going
17 through the regulatory process. Leveraging the financial resources of the Electric System
18 to cover the operating expenses of the Water System was seen as a viable option without
19 the need for incurring additional carrying charges, which would attain with a commercial
20 loan, and is a historically acceptable approach. The PSC consultants' approach would
21 suggest that it is per se imprudent for one system to lend to another for a period beyond
22 the end of the fiscal year. Neither the Hearing Examiner nor the PSC should accept the
23 extraordinary approach recommended by Georgetown. In order to provide safe and

1 reliable power, the \$2.5 million line of credit of the Water System was utilized to pay
2 operating expenses. The alternative would have been to effectively shut the system down
3 while the Authority sought a rate increase. Typically, getting a base rate increase takes at
4 least eight months. Thus, it was prudent for the Electric System to assist the Water
5 System with a short-term loan.

6 **Q. WHAT DO YOU MEAN BY YOUR STATEMENT THAT THE ELECTRIC**
7 **SYSTEM'S INTRA-COMPANY LOAN TO THE WATER SYSTEM IS A**
8 **"HISTORICALLY ACCEPTABLE APPROACH"?**

9 A. In 1998, the Water System borrowed funds from the bond market in order to
10 leverage those resources to acquire a boiler that was necessary for the Electric System.
11 The transaction that resulted in the use of \$10 million from the Water System line of
12 credit is the reverse to transactions that have occurred in the past, and has been and still is
13 an acceptable practice. With respect to the 1998 transaction which resulted in an intra-
14 company loan from the Water System for the benefit of the Electric System, there were
15 no recommendations by Georgetown at that time for the disallowance of that loan in the
16 Authority's rates.

17 **Q. ARE THERE OTHER REASONS TO REJECT GEORGETOWN'S**
18 **RECOMMENDATIONS?**

19 A. Yes. Virgin Islands ratepayers already pay a higher per capita cost of PSC
20 regulation than ratepayers anywhere else on the U.S. mainland and its territories. The
21 PSC should seek solutions to reducing this cost. As you are aware, the Authority has
22 made major strides forward in diversifying its reliance on fossil fuels towards the goal of
23 reducing the cost of electric energy to the ratepayers. The PSC has said publicly that it

1 supports the efforts of the Authority and should continue to look for ways to extend its
2 support. It should not accept a recommendation from Georgetown that based on this
3 rebuttal testimony, would deal a crushing financial blow to the Authority and would set
4 the Authority back in its efforts to provide relief to the ratepayers.

5 **Q. IS THE AUTHORITY WILLING TO CONSIDER OTHER ALTERNATIVES?**

6 **A.** The PSC's consultants have indicated that they are open to resolving the
7 \$12.5 million loan amount allowable as a regulatory matter if the Authority can provide
8 assurance that the issue will not set a precedent or happen again. As the CEO has
9 indicated, the Authority can represent that it has no intention to set a precedent or cause
10 this issue to arise again. The Authority, however, will not allow Georgetown to leverage
11 its recommendation with respect to the \$12.5 million and the intrinsic negative impacts to
12 the Authority in an effort to usurp the legislative grant of authority given to the
13 Authority's Board of Directors. The Authority does not view the power to set rates that
14 resides with the PSC as encompassing within it the power to manipulate the
15 administrative decisions of the Authority. Nor do the courts of the Virgin Islands agree
16 that the power to set rates includes the ability to invade the province of the Board of
17 Directors of the Authority. We believe that the recommendations of the Authority as set
18 forth in my direct testimony as to how the \$12.5 million should be addressed to be
19 reasonable and the Authority stands by that recommendation. Georgetown's approach to
20 rate setting involves attempting to get more control over WAPA rather than addressing
21 on the merits the issue before them. For example, their proposal to address their concerns
22 over the \$12.5 million owed by Water to Electric is to ask WAPA to give up its right to
23 bond finance without first seeking PSC approval. See, Exhibit "1" hereto. The PSC

1 should order Georgetown to respect the jurisdictional limit of the PSC's authority over
2 WAPA, which is limited to setting its rates.

3
4 **Q. DO YOU HAVE A POSITION REGARDING GEORGETOWN'S**
5 **TESTIMONY THAT THE AUTHORITY HAS NOT DILIGENTLY PURSUED**
6 **COLLECTION OF THE GOVERNMENT ACCOUNTS RECEIVABLES?**

7 A. As Mr. Hodge has stated in his testimony, the premise of Georgetown's
8 comments at Pages 17-18 of their testimony is incorrect. Georgetown suggests that the
9 Authority is somehow not acting diligently in bringing to the PSC a proposal to institute a
10 late payment penalty or interest fee on government accounts, for late pays. Not only does
11 the Authority already charge government accounts the same late payment penalty as non-
12 governmental accounts, but the Authority regularly communicates with the OMB director
13 and provide updates regarding the status of all government accounts. The Authority is
14 assured by OMB that the status update information is then disseminated to the
15 government agencies, with copies to the Governor, a measure that is designed to get
16 attention at the highest level of government to ensure the timely payment of all
17 government accounts. Additionally, the Authority is in constant contact with the Virgin
18 Islands Legislature to come up with ways to ensure timely payment by all agencies of the
19 Government. Presently there is a bill moving through the process of approval at the
20 Virgin Islands Legislature, Bill No. 30-0017- Single Payor Utility Fund, which is
21 intended to create greater reliability in the payment of the Authority's bills by the
22 Government. The bills' sponsor even secured input from the Authority. Bill No. 30-
23 0017 is intended to allow all appropriations for the various government agencies to be

1 allotted and deposited into an account at the Department of Finance, for the purpose of
2 making payment directly to WAPA, on all electric invoices. The Authority's bills would
3 be paid from this account until fully expended.

4 **Q. DO YOU AGREE WITH GEORGETOWN'S POSITION ON THE**
5 **SURCHARGES?**

6 **A.** No, although as stated in Mr. Hodge's testimony, some of the concepts for a
7 surcharge would be appropriate if the surcharge is for a limited purpose to supplement
8 base rates. Surcharges do not give the Authority the flexibility to manage its own funds.
9 In effect, a system of surcharges would mean that the Authority loses the discretionary
10 control over the management of its own funds and to make decisions in the best interest
11 of the utility and the ratepayers. The Authority is open to working with the PSC to
12 address its needs provided that the PSC does not seek to implement surcharges without
13 WAPA's consent that infringe on its statutory powers. Surcharges that attempt to
14 encroach on the management authority of the Authority will not be consented to. The
15 operation of the Authority is something that is statutorily WAPA's responsibility alone.
16 The PSC can implement surcharges and monitor their use but it cannot lawfully restrict or
17 limit, without WAPA's consent, how WAPA spends the revenue or funds generated by
18 surcharges.

19 Nor can it implement surcharges for regular, recurring base rate items and call
20 them surcharges without WAPA's consent. A surcharge should be for a limited purpose
21 and supplement base rates. WAPA rejects the creation of surcharges in lieu of base rates
22 and refuse to consent to the characterization of base rate revenue as surcharge revenue. It

1 asks the Hearing Examiner to provide the “surcharge proposed revenue” be instead
2 included in base rates where WAPA does not consent to the surcharge.

3 An example where a surcharge may be appropriate is a surcharge to replenish the
4 self-insurance fund for a limited time until the fund reaches the required level.

5 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

6 **A.** Yes.



Marie ThomasGriffith< mtg@hallgriffith.com>

612/613 - \$10M Loan/\$2.5M LOC

Boyd Sprehn < sprehn@bclawvi.com>

Wed, Jul 10, 2013 at 10:12 AM

Reply-To: Boyd Sprehn < sprehn@bclawvi.com>

To: Sam Hall < sam@hallgriffith.com>, Marie Griffith < mtg@hallgriffith.com>

Cc: Jim Madan < jammadan@gmail.com>, Larry Gawlik < lrgawlik@aol.com>, Mike Dirmeier < mdirmeie@gmail.com>, Bruce Oliver < boliver.rha@verizon.net>

Sam and Marie:

Following up on our discussion, we stress that the PSC Technical Staff views these two items has having two major components:

- Policy/Process
- Numbers

The numbers issues are technical, and the staffs will discuss. Numbers for the LOC have been consistent; for the \$10M intra-company liability less so.

The policy process issue has a few major components:

1. Past year operating expenses being used to justify future rate settings is a major violation of regulatory practice, policy and law. If this is done in this instance, it can only be on the basis that this is not a precedent establishing that the Commission will do this in the future. It is a one-time only relief, and contingent on express agreement that this will not be done again.
2. Any actions on loans, letters of credit, bonds, etc., that will require rates for their long-term support must be brought to the PSC prior to finalization, or will face the possibility of disallowance. The VI Supreme Court has been clear that the PSC cannot require pre-approval, but that it clearly retains the right to disallow.
3. The same issue applies, whether the debt is external or an intra-company transfer.
4. If this matter had been brought in a timely manner, we would have suggested the creation of paired regulatory asset (electric side) and liability (water side). Again, this timing is significantly delayed. These are 2011 operating expenses, and should have been addressed within that year or very shortly thereafter.

As we stressed yesterday, the PSC is open to notices of changes in position, while curative measures can be prudently applied. The Commission quite frankly prefers to receive notice when issues arise, not at substantially later times when both time and opportunities are lost.

Boyd L. Sprehn
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Marie ThomasGriffith < mtg@hallgriffith.com >

612/613 - \$10M Loan/\$2.5M LOC

Marie ThomasGriffith < mtg@hallgriffith.com >

Thu, Jul 11, 2013 at 4:01 PM

To: Boyd Sprehn < sprehn@bclawvi.com >

Cc: "Hugo Hodge Jr." < hugo.hodge@viwapa.vi >, Lorelei Farrington < lorelei.farrington@viwapa.vi >, Sam Hall < sam@hallgriffith.com >, "Julio A. Rhymer" < Julio.Rhymer@viwapa.vi >, Keithley Joseph < keithley.joseph@psc.vi.gov >, Jim Madan < jammadan@gmail.com >, Larry Gawlik < lrgawlik@aol.com >, Mike Dirmeier < mdirmeie@gmail.com >, Bruce Oliver < boliver.rha@verizon.net >

Boyd,

The Authority cannot agree to give the PSC pre-approval rights over matters within its exclusive jurisdiction. As you can appreciate, the Authority is invested in the process by which the parties confer in these informal discussions, however we know of no basis by which we can advance the ball forward in reaching a stipulation with respect to the \$2.5 million dollars, where, as you have expressly stated, the PSC will review the prudence and reasonableness of the decisions of the Authority in advance, over something which is squarely and solely within the purview of the Authority's management and its Board. The proposal in which you hold fast to pre-conditions for a settlement that is not respectful of the Authority's jurisdictional powers is not acceptable.

In view of our impasse there is no need for a 5 p.m. meeting.

[Quoted text hidden]



Marie ThomasGriffith < mtg@hallgriffith.com >

612/613 - \$10M Loan/\$2.5M LOC

Marie ThomasGriffith < mtg@hallgriffith.com >

Thu, Jul 11, 2013 at 2:56 PM

To: Boyd Sprehn < sprehn@bclawvi.com >

Cc: "Hugo Hodge Jr." < hugo.hodge@viwapa.vi >, Lorelei Farrington < lorelei.farrington@viwapa.vi >, Sam Hall < sam@hallgriffith.com >, "Julio A. Rhymer" < Julio.Rhymer@viwapa.vi >

Good afternoon Boyd,

While we recognize the need to include the \$12.5 million in the rates, the Authority will not condition the opportunity to reach a stipulation with respect to the Electric and Water rate cases on the basis of expanding the PSC's jurisdiction over WAPA. We are prepared to consider options that respect the separation of powers between the PSC and WAPA.

Best Regards, Marie

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