

GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

PUBLIC SERVICES COMMISSION

IN RE:

WAPA AVOIDED COST STUDY

PSC DOCKET NO. 620

AND

IN RE:

WAPA FEED-IN TARIFF

PSC DOCKET NO. 632

NOTICE OF SCOPE AND AMENDED SCHEDULE

**The following amended schedule shall apply in the above two matters.**

**Introduction**

The Virgin Islands Public Services Commission (“PSC”) established Docket No. 620 for the purposes of establishing the avoided energy and capacity costs the Virgin Islands Water and Power Authority (“WAPA”) would have if it purchased power from qualified third party small power producers or co-generation facilities (“Qualified Facilities”).

PSC also established Docket No. 632 for the purposes of analyzing WAPA’s Petition for Approval of a Feed In Tariff for the Electric System.

At its meeting on September 24, 2013, the PSC appointed Andrew C. Simpson to serve as the Hearing Examiner in examining all matters pertaining to Docket No. 620. The PSC is charged with setting rates that are just, reasonable, and do not discriminate or otherwise place an unreasonable burden on consumers for the purchase by WAPA of electric energy and capacity from Qualified Facilities. Such rates are considered just and reasonable if they are set at WAPA’s “avoided cost.”

At its meeting of September 29, 2014, the PSC appointed Andrew C. Simpson to serve as the Hearing Examiner in examining all matters pertaining to Docket No. 632.

## Preliminary Statement of Scope

The scope of the examination for Docket 620 shall be for the purposes of receiving evidence and making recommendations to the PSC, based upon that evidence, as to (a) the factors the PSC should consider in determining WAPA's avoided costs and (b) the rates that PSC should adopt for WAPA's purchases of electricity and capacity from Qualified Facilities. Because WAPA has indicated that its Integrated Resource Plan ("IRP") is an important factor in analyzing the Avoided Cost Rate, the scope necessarily includes the IRP as well (to the extent that it is a factor in considering the Avoided Cost Rate).

The scope of the examination for Docket No. 632 shall be for the purposes of receiving evidence and making recommendations to the PSC, based upon that evidence, regarding WAPA's petition for approval of a Feed In Tariff and recommendations as to the rates at which qualified renewable energy producers will be compensated when they sell power back to WAPA.

Because of the inter-related nature of the two dockets, and in the interests of efficiency, it is the Hearing Examiner's intention to proceed with the two dockets on parallel schedules. Prior to the point of scheduling public hearings on each docket, the Hearing Examiner will entertain suggestions from the participants as to whether the hearings on the two dockets should be consolidated or proceed separately (with a separate record created for each rather than a consolidated record).

## Schedule

The schedule below reflects the intent of the Hearing Examiner to follow the existing Virgin Islands Rules and Regulations found at 30 V.I.R.R. §§11-31 and 11-42. The Hearing Examiner sees no compelling need to waive these rules as provided by 30 V.I.R.R. §§11-92. Unless otherwise modified by the Hearing Examiner, the following schedule shall apply to this docket:

1. WAPA filed its Avoided Cost Report on **February 29, 2016**.
2. WAPA filed its 2016 IRP with the PSC on our about **December 14, 2016**.
3. The Hearing Examiner is in possession of the 2016 IRP, which bears an indication that it is "Draft Report Revision 3" but which the Hearing Examiner understands is intended to serve as the final IRP. If this is not the final report, WAPA shall provide the Hearing Examiner with the final report **immediately**.
4. By **June 30, 2017**, PSC staff shall send copies of this Order to (a) any person or entity that has requested information about WAPA's avoided cost rates; (b) any person or entity that has applied to be a QF; (c) any person or entity known to

PSC staff to be interested in becoming a QF and (d) any person or entity that has requested information about WAPA's Feed In Tarrif. If an individual or entity expresses an interest in WAPA's avoided cost rates or the Feed In Tariff after June 30, 2017, staff shall endeavor to give such individual or entity a copy of this Order with reasonable dispatch.

5. PSC staff shall also give/publish any other notice of this Order as required by statute or regulation by **June 30, 2017**.
6. Any QF or potential QF, may intervene (subject to objection by WAPA) in Docket No. 620 by filing a Notice of Appearance on or before **July 14, 2017**. Any person interested in WAPA's Feed In Tariff may intervene in Docket No. 632 (subject to objection by WAPA) by filing a Notice of Appearance on or before **July 14, 2017**. Requests for intervention after July 14, 2017 must be by motion and leave of the Hearing Examiner. An order authorizing such intervention may include a limitation upon the intervenor's right to participate in discovery so that the proceedings are not delayed.
7. WAPA shall file an objection to the intervention of any entity on or before **August 15, 2017**. The objection shall be in the form of a memorandum with points of legal authority setting forth the legal basis for the objection. An intervenor that is the subject of such objection shall file an opposition to the objection with points of legal authority setting forth the legal basis supporting its intervention by **August 25, 2017**. Unless requested by the Hearing Examiner, there shall be no reply to this opposition.
8. Discovery
  - a. **Docket No. 620 Discovery:** Effective with the issuance of this Order, PSC staff and any party that has intervened may serve interrogatories or requests for production of documents ("discovery requests") upon WAPA that are directed at obtaining information that the propounding party believes will assist it in understanding WAPA's Avoided Cost Report and/or the IRP.
    - i. If a party intends to rely upon data or evidence other than that obtained from WAPA in challenging WAPA's Avoided Cost Report or to propose an alternative avoided cost, then that party shall promptly, but **no later than July 14, 2017**, produce copies of such evidence to WAPA and all other parties. WAPA may seek discovery relating to such data/evidence in the same manner as provided with respect to discovery propounded to WAPA and the party receiving such discovery shall object/respond in the same manner and under the same schedule as required for WAPA when it is responding to discovery.

- b. **Docket No. 632 Discovery:** Effective with the issuance of this Order, PSC staff and any party that has intervened may serve interrogatories or requests for production of documents (“discovery requests”) upon WAPA that are directed at obtaining information that the propounding party believes will assist it in understanding WAPA’s Petition for Approval of a Feed In Tariff for the Electric System.
- i. If a party intends to rely upon data or evidence other than that obtained from WAPA in challenging WAPA’s petition for approval of a Feed In Tariff or to propose an alternative Feed In Tariff, then that party shall promptly, but **no later than July 14, 2017**, produce copies of such evidence to WAPA and all other parties. WAPA may seek discovery relating to such data/evidence in the same manner as provided with respect to discovery propounded to WAPA and the party receiving such discovery shall object/respond in the same manner and under the same schedule as required for WAPA when it is responding to discovery.
- c. **Discovery Generally:**
- i. Parties propounding discovery shall attempt to avoid serving discovery that duplicates requests propounded by someone else. All parties shall be served copies of discovery and discovery responses. To the extent that discovery is duplicative, WAPA may respond by incorporating a response to an earlier request (specifically identifying the prior request and response). To the extent that only a portion of a request is duplicative, WAPA may incorporate a prior response to the portion that is duplicative but shall also respond to the remaining portion of the request that is not duplicative.
- ii. Any documents produced shall be numbered with an individual identifying number (*e.g.*, a “Bates” number or similar number system). Responses to individual requests for production of documents shall identify the specific documents that are responsive to a particular request. (*E.g.*, a response, “See all documents produced to date” is not acceptable.)
- iii. If WAPA objects to any discovery requests, it shall serve written objections to the specific discovery request for which it has an objection within 14 days of receiving the discovery requests, specifying the nature of the objection with sufficient detail such that the propounding party may understand the objection and, if appropriate, rephrase the discovery request to meet the objection. For example, if the objection is that the discovery request is “vague,” WAPA shall state which word or words it believes is/are vague and how it interprets the request. Any objection not raised within 14 days of receiving the discovery request shall be deemed

waived.

- iv. A propounding party receiving an objection from WAPA to a discovery request shall have 7 days to either resolve the objection informally with WAPA or file a motion with the Hearing Examiner for a ruling on the objection. WAPA shall respond to any such motion within 7 days of receipt; no reply to such response will be accepted absent extraordinary circumstances.
  - v. WAPA shall respond to any discovery request within 21 days of receiving same except to the extent it has objected to the request. If WAPA objects to a portion of a particular request, it shall respond to the portion for which it has no objection. If it believes a request is vague, the objection shall set forth with particularity the reason the request is vague and how WAPA interprets the request. For any response to a request for production, WAPA shall state whether it has fully responded to the request. The party propounding discovery and WAPA may stipulate, without the approval of the Hearing Examiner, to extend the deadline for responding to a discovery request by up to 14 days.
  - vi. Discovery requests and responses may be served electronically. The parties are encouraged to create a repository on the Internet where any interested party and the public may access the documents that are produced in this matter.
  - vii. All discovery shall be served upon the party from whom discovery is sought on or before **August 15, 2017**.
9. A telephonic status conference will be held with representatives of WAPA, PSC staff, and any intervenors on **September 1, 2017** at 10:00 a.m. for the purposes of considering any changes to this schedule, the preliminary statement of scope set forth above, and the procedure to be followed in the evidentiary hearing.
10. Briefing on Avoided Cost Rates:
- a. Any party wishing to challenge any portion of WAPA's Avoided Cost Report shall file a brief or memorandum identifying the issues it disputes and submitting (or identifying, if the documents are available in a repository) any evidentiary material that it believes supports such challenge by **September 29, 2017**.
    - i. To the extent that a party wishes to propose alternative avoided cost rates, the brief or memorandum shall specify the proposed alternative cost rates

and the evidentiary basis for same. To the extent that a proposed alternative avoided cost rate is based upon evidence that was not produced by WAPA in discovery, the proposing party shall include such evidence in an appendix to the brief/memorandum.

- b. WAPA shall file any response to any such challenge or to any proposed alternative avoided cost rate by **October 31, 2017**.
  - c. A party wishing to file a reply to any response by WAPA shall file such reply by **November 14, 2017**.
11. Briefing on WAPA's petition for approval of a Feed In Tariff:
- a. WAPA may amend its Petition for Approval of a Feed In Tariff on or before **August 15, 2017**. The petition, and any amendment, shall identify the evidence that WAPA relies upon in support of its Petition and shall include points of authority for all legal assertions reflected in the petition/amendment.
  - b. Any party wishing to challenge any portion of WAPA's Petition, as amended, shall file a brief or memorandum identifying the issues it disputes and submitting (or identifying, if the documents are available in a repository) any evidentiary material that it believes supports such challenge by **September 29, 2017**.
    - i. To the extent that a party wishes to propose an alternative Feed In Tariff, the brief or memorandum shall specify the proposed alternative Feed In Tariff and the evidentiary basis for same. To the extent that a proposed alternative Feed In Tariff is based upon evidence that was not produced by WAPA in discovery, the proposing party shall include such evidence in an appendix to the brief/memorandum.
  - c. WAPA shall file any response to any such challenge or to any proposed alternative Feed In Tariff by **October 31, 2017**.
  - d. A party wishing to file a reply to any response by WAPA shall file such reply by **November 14, 2017**.
12. Evidentiary hearings are *tentatively* scheduled for the week of **December 4, 2017** at locations to be determined.

June 9, 2017

/s/ Andrew C. Simpson  
Hearing Examiner