

GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

PUBLIC SERVICES COMMISSION

IN RE:

THE VIRGIN ISLANDS WATER AND
POWER AUTHORITY'S LEVELIZED
ENERGY ADJUSTMENT CLAUSE

PSC Docket No. 289

Order No. 30/2017

[Reconsidered]

ORDER

WHEREAS, on October 1, 2016, the Virgin Islands Water and Power Authority's (hereinafter "WAPA" or "Authority") filed a Petition with the Virgin Islands Public Services Commission (hereinafter "PSC" or the "Commission") for the Electric Levelized Energy Adjustment Clause (hereinafter "LEAC") factors for the period of January 1, 2017 through June 30, 2017, to be applied on all bills rendered on or after January 1, 2017 and the Water LEAC for the calendar year of 2017; and

WHEREAS, on the request of the Authority and with the recommendation of staff, the Commission had previously approved the extension of the rates from the first half of 2016 through the remainder of 2016, as fuel prices were forecast to remain relatively for the rest of that year. The continuation of the existing rates allowed both the Authority and staff to focus on base rates, the Integrated Resource Planning process, and development of long-term and transition planning; and

WHEREAS, on December 9, 2016, the Commission received a Report and Recommendations from its technical consultants, Georgetown Consulting Group, Inc.; and

WHEREAS, the Commission has reviewed the Authority's Petition for new LEAC rates for the period of January 1, 2017 to June 30, 2017, the supporting information, and the report, the rebuttal and testimony of the witnesses, and the prior actions in this docket; and

WHEREAS, at its meeting on December 15, 2016, the Commission first considered this matter, adopted Order No. 30/2017 and continued the remaining issues to the Commissions next meeting; and

WHEREAS, the Water and Power Authority filed a petition for reconsideration of Order No. 30/2017 on January 13, 2017, the day following a Commission meeting; and

WHEREAS, the Commission met on January 26, 2017 and the Water and Power Authority objected to the hearing as with insufficient notice, again heard from its staff and the Authority, and the Commission did not act on the Petition for Reconsideration at this meeting; and

Whereas the Commission met again on February 22, 2017, and after hearing from the Water and Power Authority and Commission staff, the Commission determined to reconsider its Order 30/2017 and

NOW THEREFORE, the Commission AMENDS [in bold and strikeout type] that **ORDER 30/2017 as follows**:

1. The report and recommendations of the Commissions technical consultants are accepted, as modified below:
 - 1.1. Only fuel and purchased energy costs that are just and reasonable, and represent an efficient and financially prudent level for operations shall be included in LEAC rates effective January 1, 2017 and going forward. Any costs higher than the level of cost deemed prudent will not be allowed for LEAC rate recovery by the PSC. **Affirmed.**
 - 1.2. The PSC shall not be bound to future rate increases necessary because of WAPA entering into agreements that require Commission rate action without first seeking approval by and order of the Commission for the associated rates and the underlying agreements being just and reasonable for purposes of setting rates. Any executed agreement having an impact on future revenues to be collected from consumers and not receiving prior Commission approval shall not encumber the Commission's rate decision-making authority and the costs associated with such agreements *may* not be recoverable in base or LEAC rates. **Deferred for further proceedings on schedule to be set by PSC Executive Director and to be brought back to Commission.**
 - 1.3. The current decision and action by WAPA to undertake a lease extension of the temporary emergency generator (Unit 25) is just and reasonable based on the information on the working term sheets provided to Staff in the IRP proceeding. ~~The final executed lease extension shall be provided to Staff no later than January 31, 2017.~~ **Affirmed as modified.**
 - 1.4. The current decision and action by WAPA to undertake a lease of an additional generator (Unit 26) is just and reasonable based on the information on the working term sheets provided to Staff in the IRP proceeding. ~~The final executed lease extension shall be provided to Staff no later than January 31, 2017.~~ **Affirmed as modified.**
 - 1.5. The failure of WAPA to implement the IAC and to reprogram approved IAC funds for other purposes was imprudent and is not just and reasonable. In the absence of the IAC for stated "cost savings" the resulting operations of WAPA were highly unreliable and inefficient costing ratepayers tens of millions of dollars. **Deferred for further**

proceedings on schedule to be set by PSC Executive Director and to be brought back to Commission.

- 1.6. The various maintenance and other delays impacting current partial operations of the Harley plant HRSG or its full commercial operations following the retrofit are imprudent. WAPA and Staff agree that the IRP undertaken by WAPA has confirmed that going forward once the new RICE and combustion turbines are in commercial operations that any future operation of the HRSG would not be optimal. ~~The Commission is convinced that current operation of the HRSG and operations in the past at full capacity would have saved consumers tens of millions of dollars of fuel costs as testified by Staff.~~ **Affirmed as modified.**
- 1.7. WAPA shall provide with each LEAC filing a statement clearly identifying the impact on WAPA and its customers of having received funds from all government agencies (central and autonomous) to bring their outstanding balances current. **Deferred for further proceedings on schedule to be set by PSC Executive Director and to be brought back to Commission.**
- 1.8. The language in Section 3.4.2 of the pending MFR is revised to read: *“The scope of discovery shall include questions seeking clarification of information contained in the Petition, the Cover Letter, the exhibits submitted in support of the Petition and any other information directly related to the cost of fuel or energy that is to be charged to customers through the LEAC currently or in the future. The status of recommendations of the management audit and the results of the IRP shall be provided in detail and be reviewed as part of the LEAC process in determining the appropriate LEAC rate.”* **Deferred for further proceedings on schedule to be set by PSC Executive Director and to be brought back to Commission.**
- 1.9. Recommendations in the Management Audit relating to improvements in fuel costs and reliability of the WAPA system are found to be relevant for consideration in each LEAC proceeding in the determination of both current and long term costs. **Affirmed.**
- 1.10. Status reports from ~~any consultant of the Commission’s choosing the Management Auditor~~ shall be provided the PSC annually to accompany the July – December semi-annual LEAC filing including a calculation of the fuel cost that would be incurred with efficient operation as defined by the ~~consultant of the Commission’s choosing Management Auditor~~, and the additional cost included in the electric LEAC rate as a result of failure to meet the efficient operation standard. The Executive Director shall arrange for and coordinate this task between the ~~consultant management auditor~~ and Staff. **Affirmed as modified.**
- 1.11. WAPA’s objection to hiring ~~any consultant of the Commission’s choosing the management auditor~~ to have any further involvement in providing services to either WAPA or the Commission Staff is found to be unreasonable and contrary to the practice in most states.¹ **Affirmed as modified.**
- 1.12. The Commission further finds that WAPA’s responses in this proceeding with respect to the implementation of the management audit recommendations and their

¹ Response from management auditor to WAPA as provided to the Commission.

impact on customer rates and reliability of operation are inadequate and not transparent. **Affirmed.**

1.13. The Commission directs Staff to secure the assistance of a **consultant of the Commission's choosing** ~~the management auditor as has already been accomplished and authorized by the Executive Director~~ to undertake the following to be provided as part of the Staff position in the next LEAC filing:

1.13.1. evaluation of WAPA's responses with regard to management audit issues provided in this proceeding;

1.13.1.1. Status report of the implementation of each recommendation; Savings accomplished with the implementation of recommendations;

1.13.1.2. Savings forgone with delays in implementation or non-implementation of recommendations;

1.13.1.3. Further recommendations based on the status review.

1.13.1.4. Since the recommendations of the management auditor impacts both the fuel and base rate elements of WAPA's tariffs ~~the management auditor~~ **consultant** shall also assist staff in providing the base rate impacts of their recommendations and their findings from their status and implementation review. **Affirmed as modified.**

1.14. Recommendations and determinations in the IRP relating to improvements in fuel costs and reliability of the WAPA system are found to be relevant for consideration in each LEAC proceeding in the determination of both current and long term costs. **Affirmed.**

~~1.15. Implementation status reports from WAPA in consultation with the IRP consultant should be provided the PSC to accompany each semi-annual LEAC filing until further order of the PSC. **Rescinded.**~~

1.16. Findings and recommendations from the IRP consultant on the issues of:

1.16.1. termination of the retrofit of the existing HRSG on St Thomas (Unit 21); termination of 6B HRSG in storage and its intended use on St Thomas;

1.16.2. extension of the current lease unit 25 on St Thomas;

1.16.3. acquisition of an additional leased unit (Unit 26) on St. Thomas; and

1.16.4. the disposition of units 22, 12 and 14 on St Thomas have been agreed to by

WAPA and shall be followed in an efficient manner. Status reports shall be provided in each LEAC until the assets are disposed of. **Affirmed.**

1.17. The Commission will set rates in the future on the demonstration of optimal decisions such as following industry best practices including the continual review and updating of the IRP and providing transparent information on the implementation of the IRP and management audit recommendations in a timely fashion. **Affirmed.**

1.18. WAPA shall provide to the Commission its final Avoided Cost rate recommendations inclusive of rates for dispatchable and non-dispatchable renewable energy projects and capacity payment considerations for new dispatchable generation projects no later than January 31, 2017. Concurrently, WAPA shall file its proposed feed-in tariff and recommended feed-in program for new renewable energy for Commission review. **Affirmed.**

1.19. Amendments to the LPG Infrastructure and O&M Recovery provisions of the Vitol Agreements from the initial \$87 million basis to the \$150 million or any other higher amount shall not be considered “just and reasonable” by the Commission for inclusion in rates without WAPA providing a detailed analysis of WAPA’s decision to enter into each change order / contract amendment, copies of any independent assessments performed of each change order/ contract amendment, and an assessment of the *quid pro quo* of each party’s position with regard to the cost of money implicit in the infrastructure fee, the details of the costs absorbed by VITOL when negotiating the contract amendment and the proposed amendment to the “substantial completion” clause. WAPA’s **Status report**, position and support for its position shall be supplied to Staff no later than March 31, 2017 inclusive of:

- 1.19.1. Work scope demonstrating the audit’s investigation into WAPA project management practices employed, construction best practices employed, project execution, cost management, project controls, value engineering, alternative evaluations, risk management, project sustainability and the reasonableness of WAPA decision-making processes;
 - 1.19.2. Prudence standards employed and how applied to decision making;
 - 1.19.3. Auditor’s review of WAPA board of directors and management’s efforts and responsibilities in reviewing cost escalations related to the contract and determine whether they were effectively performed;
 - 1.19.4. Auditor’s report on all aspects of the engagement;
 - 1.19.5. Identification of standards (Yellow Book Guidelines) relied upon in conducting the review;
 - 1.19.6. Explanation of auditor’s independence;
 - ~~1.19.7. Provision of a status report to the Commission by January 31, 2017.~~
- Affirmed as modified.**

1.20. Staff’s inclusion of the monthly Infrastructure charge based on the 2013 VITOL contract is accepted by the Commission on a temporary basis. In no event shall more than \$87 million be recovered without further Order of the Commission. **Affirmed.**

1.21. Nothing in this Order is to be construed as any final approval of the rates associated VITOL Contract. **Affirmed.**

1.22. No more than \$5 million annually for the payment of LPG related O&M expenses will be ordered until a full and transparent justification is provided by WAPA & VITOL that costs are reasonable and WAPA and Vitol have complied with the terms of the contract. **Affirmed.**

1.23. WAPA should file its updated inventory for fuel oil using actual expenses for the true-up and for deferred calculation. **Affirmed.**

1.24. WAPA should provide the PSC with monthly financials from June 2016 through December 2016 as they become available and in no case later than March 31, 2017 and a comprehensive explanation of why the financial information was unavailable for this LEAC filing.

- 1.25. ~~WAPA shall present documentation to the Commission no later than January 31, 2017 that all requirements pursuant to the Vitol contract and amendments have been met by VITOL. Rescinded.~~
- 1.26. ~~WAPA shall file the analysis previously required by paragraph 7 of Order 25/2015 no later than February 28, 2017. The lack of responses is delaying the Commission's review and consideration of the inclusion of any additional cost in the Infrastructure Recovery Fee above the original \$87 million. WAPA should also file all supporting evidence as to why the cost of money embedded by VITOL in the infrastructure charge is reasonable (including an estimated \$54 million of VITOL tax payments to the VI Government). WAPA should also include the justifications for the two further amendments of the contracts and the additional costs in rates that will result. Rescinded.~~
- 1.27. WAPA should seek to explore alternatives such as a renegotiation of this provision, a buy-out of this provision, alternative commercial uses for this water or other WAPA uses. WAPA should a report to the Commission by April 1, 2017 on the alternatives available for reducing this unnecessary cost associated with the minimum cap on ultra-pure water and its proposed course of action. **Affirmed.**
- 1.28. ~~Prior to rates approved by the Commission to take effect January 1, 2017 WAPA shall provide the PSC's Executive Director a certification that WAPA is in compliance of all Orders of the Commission and obtain approval from the Executive Director for the rates to be implemented. Rescinded.~~
- 1.29. [Not accepted.]
- 1.30. [Not accepted.]
2. Finds that the Commission has previously approved the initial contract for \$87M in principal costs, and that only those costs amortized over a five year period should be included in base rates;
3. When LEAC rates are adjusted, the Commission finds that infrastructure and maintenance costs for the VITOL/LPG project are more appropriately categorized as base rate costs, and those costs shall be removed from the LEAC and reflected in base rates.
4. This matter is continued until the next meeting (January);
5. The current rates shall be maintained until the matter is considered at the next meeting.

So Ordered.

For the Commission



Andrew Rutnik, Chair

Date: February 28, 2017