

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

Public Services Commission

IN RE:)	Order No. 22/2025
)	Docket No. 705
THE VIRGIN ISLANDS WASTE MANAGEMENT)	
AUTHORITY PETITION FOR RECONSIDERATION)	
OF ANNUAL ASSESSMENT FEES FOR FY2025)	
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Order

WHEREAS, the Public Services Commission is entirely funded by assessments on the regulated utilities, both annual and special assessments; and

WHEREAS, Section 25a of Title 30 provides, in relevant part:

(a) As used in this section:

gross operating revenues means *the gross operating revenues* of a public utility derived from intraterritorial regulated operations in the last preceding calendar year except as it relates to the Virgin Islands Water and Power Authority, gross operating revenue calculations do not include fuel charges, referred to as the LEAC (Levelized Energy Adjustment Charge).

territorial gross operating revenues means the aggregate sum of all of the gross operating revenues of all of the public utilities regulated by the Commission.

Public utility includes public utilities and cable television companies.

(b) Each public utility shall, *prior to September 30*, of each year, pay a fee, as determined under subsection (c) of this section, to the Commission except that the Virgin Islands Water and Power Authority shall pay a quarterly fee of the annual assessment by the utilities, consistent with the quarterly allotment to the Public Services Commission by the Office of Management and Budget. The fees shall be deposited into the Public Services Commission Revolving Fund; provided, however, that there is hereby established a ceiling of \$2,500,000 for the amount of said fees to be deposited into the Fund, any excess to be covered into the General Fund.

(c) The annual fee for a particular public utility shall be an amount equal to the product of the Commission's total current year assessments and the public utility's revenue ratio. The revenue ratio of a public utility shall be equal to its gross operating revenues divided by the territorial gross operating revenues. The

Executive Director of the Commission shall, prior to September 1 of each year, calculate each public utility's fees under this section, and after approval by the Commission, shall notify each such public utility of the amount due. ...

[*Emphasis added.*]

WHEREAS, the Virgin Islands Waste Management Authority (hereinafter “Authority” or “VIWMA”) was created on December 17, 2003 under Act No. 6638; and

WHEREAS, the Legislature stated its intention that VIWMA was to become self-sufficient in its funding. VIWMA was at that time and has since that time been primarily funded by appropriations through the Virgin Islands Legislature; and

WHEREAS, the Public Services Commission had been assigned the responsibility to approve all fees and charges collected by VIWMA; and

WHEREAS, promptly after the creation of the Waste Management Authority, recognizing that Waste Management Authority would be substantially funded by the Government for a period of years, the Commission staff met with Waste Management Authority’s then Director and her staff and agreed that the revenues received through the appropriations process to fund the regulated operations of the Authority would be included in the Annual Assessment calculation; and

WHEREAS, the Authority remains primarily funded through the Appropriations process in addition to fees previously authorized by the Public Services Commission; and

WHEREAS, those assessments were made and paid in a reasonably timely manner from 2007 until Fiscal Year 2020; and

WHEREAS, the Authority has not paid its annual assessment since Fiscal Year 2020; and

WHEREAS, the Commission has not changed the manner in which it calculates the annual assessment for VIWMA; and

WHEREAS, in Act No. 8471, the Legislature placed VIWMA fully within the regulatory jurisdiction of the Public Services Commission (30 V.I.C. § 1(a)(5)); and

WHEREAS, on September 10, 2024, the Commission met in regular session and ordered those funds be collected from all public utilities for Fiscal Year 2025 (“FY2025”) through annual assessment fees in PSC Order No. 38/2024; and

WHEREAS, on September 18, 2024, PSC Order 38/2024 was submitted to VIWMA and on October 18, 2024, VIWMA submitted a Petition for Reconsideration of Annual Fees; and

WHEREAS, VIWMA’s Petition for Reconsideration of Annual Fees argues that the PSC’s Annual Fees to VIWMA for FY 2025, Order No. 38/2024, are erroneous, in violation of the pertinent Virgin Islands Code, and the underlying Public Policy; and

WHEREAS, at the Commission’s November 7, 2024, meeting, the Commission granted reconsideration and directed that the matter be returned to the Commission following briefing by the VIWMA and PSC staff; and

WHEREAS, on November 13, 2024, the Commission’s Executive Director delivered to VIWMA a Scheduling Order for the reconsideration:

WHEREAS, the Authority filed its brief, testimony and exhibits on November 20, 2024; and

WHEREAS, the Commission filed its brief and exhibits on December 17, 2024; and

WHEREAS, the Authority chose not to file any rebuttal; and

WHEREAS, on February 11, 2025, the Commission held a Regular Meeting (including Zoom video conferencing and streamed live on YouTube) at both PSC offices on St. Thomas located at No. 1003 Estate Ross Suite 4, Barbel Plaza and on St. Croix located at Estate Carlton Suite 1 & 2; and

WHEREAS, the Commission heard arguments from VIWMA’s general counsel, Florence Kahugu, Esq., and the PSC’s General Counsel, Boyd Sprehn, Esq.; and

WHEREAS, the Commission finds:

- A. Pursuant to statute (30 V.I.C., Sec. 25a), the Commission is required to assess the regulated utilities for the operating costs of the Commission;
- B. Pursuant to the same statute, those assessments are to be made *pro rata* on the regulated utilities based on the operating revenues of the utility;
- C. The Waste Management Authority is a regulated utility pursuant to statute (30 V.I.C. Sec. 1(a)(5));
- D. The Commission staff has prepared and the Commission has accepted the FY2025 annual assessment allocation (Order No. 38/2025);
- E. The annual assessment on the Waste Management Authority is \$311,225.28;
- F. VIWMA timely petitioned for reconsideration of its annual assessment;
- G. VIWMA was provided with a schedule for the submission of briefings, evidence and witness statements and for Commission staff responses;
- H. VIWMA’s primary argument is that the term “revenue” was not meant to include appropriations from the Virgin Islands Government, however, VIWMA failed to provide any legal authority for that position;
- I. VIWMA was created by Act No. 6638, enacted on January 23, 2004;
- J. Act No. 6638 provided in “Definitions”, codified at Title 29, Sec. 495:
 - (x) The term ‘revenues’ means all charges and other receipts derived by the Authority from the operation of the wastewater or solid waste management

systems and from all other activities or properties of the Authority, *including, but not limited to, proceeds of bonds, grants, gifts or appropriations to the Authority*, investment earnings and proceeds of insurance or condemnation, and the sale or disposition of real or personal property; provided, however, that amounts paid to or for the account of the Authority shall be included in revenues unless the Authority shall elect that such amount or any portion thereof shall be segregated from other funds of the Authority and applied directly by the Authority or the trustee for the Authority's bonds to the payment of the debt service thereof, in which event, such amount or portions shall not be included in revenues of the Authority for the purposes of this chapter. [Emphasis added.]

- K. The PSC properly included appropriations to the VIWMA for its “operating expenses” as revenues in the calculation of VIWMA’s annual assessment.

WHEREAS, upon review and deliberation the Commission voted to DENY VIWMA’s Petition for Reconsideration of Annual Fees for lack of basis and on the merits;

NOW THEREFORE, the Commission Orders that:

1. VIWMA’s Petition for Reconsideration of Annual Fees is DENIED.

So Ordered.

For the Commission,

Date: ²⁷ March 20, 2025



Pedro K. Williams, Chair