

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

PUBLIC SERVICES COMMISSION

IN THE MATTER OF LONG-TERM)	
PLANNING FOR GENERATION)	
CAPACITY, FUEL DIVERSITY AND)	PSC DOCKET 559
SYSTEM RELIABILITY OF THE)	ORDER NO.: 44/2004
VIRGIN ISLANDS WATER)	
AND POWER AUTHORITY)	
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ORDER

WHEREAS, the Virgin Islands has by legislation and regulation adopted a public policy, modeled on and following the public policy of the federal Public Utilities Regulatory Policies Act ("PURPA"), encouraging the development of small power producers and cogeneration facilities, known collectively as Qualified Facilities ("QFs"); and

WHEREAS, the Virgin Islands Public Services Commission ("Commission") thereby has the authority and responsibility to certify QFs and, if so requested, to order interconnection of QFs for the delivery of power to the Water and Power Authority ("Authority" or "WAPA"); and

WHEREAS, the Commission has previously received and approved requests for QF certification from two QF applicants — Caribbean Waste Technology and Caribbean Energy Resources — and has recently received, an amended application for QF certification from St. Croix Renaissance; and

WHEREAS, the Authority has refused to respond to QF proposals from any of the three approved or pending QFs; and

WHEREAS, the Authority has filed an appeal of the Commission's certification of Caribe Waste Technology as a QF; and

WHEREAS, Caribe Waste Technology has filed suit against the Authority, alleging that the Authority continues its refusal to negotiate in good faith, among other claims; and

WHEREAS, the three approved or pending QFs have proposed making more power available on St. Croix than that island presently consumes; and

WHEREAS, many electric utilities now purchase power from independent power producers ("IPPs"), many of which are not eligible for certification as QFs; and

WHEREAS, the Virgin Islands does not have any present legislation directly regulating the development of independent power producers; and

WHEREAS, WAPA is contemplating the issuance of a Request for Proposals ("RFP") for the acquisition of capacity and energy from QFs and IPPs; and

WHEREAS, the Commission has the legal authority and responsibility to insure that WAPA generation facilities are operated and expanded in a prudent and reasonable manner; and

WHEREAS, the Commission must approve any power purchase contract between WAPA and an IPP or QF; and

WHEREAS, the Commission has previously directed and the Authority has undertaken a Condition Assessment study of WAPA's generation capacity which will permit informed evaluation of future generation planning, including the selection of more cost-efficient alternatives for future operations; and

WHEREAS, the results of that Condition Assessment will be available within the next several months and may assume a significant role in determining both the amount and type of additional generation which may reasonably be sought by the Authority; and

WHEREAS, the currently proposed RFP process would result in the inability of the Commission to assure ratepayers that the expansion of WAPA's power supply system will be undertaken in a reliable, cost-effective, and fuel diversified manner; and

WHEREAS, many of the past expansions or additions to the generating capacity of WAPA have been undertaken on an emergency basis without adequate consideration of the long-term impacts of such commitments of capital and limitations on future opportunities; and


WHEREAS, the Commission finds that a comprehensive process is needed, consistent with Virgin Islands Code, by which the Commission can review QF, IPP, overall power supply, and interconnection issues for the purposes of: (1) protecting consumers, by minimizing total costs and maintaining system reliability; (2) protecting WAPA, including its credit rating; (3) increasing overall fuel diversity (minimizing susceptibility to future oil shocks) in the Virgin Islands; (4) providing for economic development; and (5) QF and IPP development;

Now therefore it is ORDERED that:

1. This Docket is established to oversee the development of a comprehensive plan to establish as sound, balanced and reliable power system for the United States Virgin Islands, addressing both the need for fuel diversity, establishment of a prudent reserve generating capacity, and a program for long-term improvement of the generating capacity of the Authority in order to ensure that choices are made in an economically rationale manner, including but not limited to the solicitation of power supply proposals from QFs and IPPs.
2. WAPA is directed to not release any Request for Proposals for independent power production or qualifying facilities until such time as a draft RFP has been approved by the Commission.
3. The Chairman is authorized to appoint a hearing examiner, who shall set a procedural schedule to permit the orderly review of the proposed RFP and for the management of the overall QF/IPP procurement process, in conjunction with long-term capital planning. To meet this objective WAPA shall provide to the Commission:
 - a. A copy of the draft RFP.
 - b. Answers to Commission's interrogatories, which will be served on the Authority by the Commission no later than August 18, 2004. The responses to these interrogatories shall be submitted to the Commission no later than September 15, 2004.

- c. Provide a written overview of the Authority's proposed protocol for integrating the results of the proposed QF and IPP capacity RFP with the on going Condition Assessment Study and the recently announced addition of a new Waste Heat Recovery Boiler on St. Croix. WAPA should explain in detail how it proposes that decisions concerning each of these activities be made contemporaneously and with full benefit of the results of each of ongoing generation related activity. This overview should be submitted concurrent with the submittal of the draft RFP to the Commission.
 - d. Provide an explanation as to why the recently announced St. Croix WHRB should not be delayed until such time that the RFP process for QF and IPP capacity and energy and the Condition Assessment Study are completed and the results compiled into an overall comprehensive generation capital improvement program.
4. Following Commission review and approval of a draft RFP, WAPA may be authorized to finalize and release the RFP to potential project proponents. If so, WAPA shall then conduct the RFP process. WAPA shall submit its evaluations and recommendations with testimony and all supporting documentation to the Commission for final review and approval.

Dated: 08, 12, 2004


VALENCIO JACKSON
Chairman

cc: Keithley Joseph, Executive Director
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