



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

September 2, 2025

Via E-Mail only

Kevin Watson
Executive Director
Commonwealth Utilities Corporation
P.O. Box 501220 CK
3rd Floor Joeten Dandan Bldg.
Saipan, MP 96950

Re: EPA Conditional Approval:
Final Financial Plan - Paragraph 65
Interim Financial Plan - Paragraph 48
Financial Reserves – Paragraph 49
Stipulated Order Number One for Preliminary Injunctive Relief (Civil Case No. CV-08-0051)

Dear Director Watson:

Paragraph 65 of Stipulated Order Number One for Preliminary Injunctive Relief requires development of a *“Final Financial Plan (“FFP”)”*.

The Final Financial Plan must provide for the generation of sufficient revenue to cover all compliance activities and deliverables required by this Stipulated Order, as well as any other anticipated expenses, including: any measures necessary to ensure compliance with the CWA and SDWA; ~~costs related to the financing or direct construction of the proposed wastewater treatment plant for the Village of Kagman~~¹; costs related to other infrastructure improvements recommended in the Master Plan; all related operation and maintenance costs; and corresponding utility expenses, including maintenance of all required reserves. The FFP must include the following components:

- a. *Five-Year Financial Plan. The five (5) year plan shall include:*
 - (i) *Estimated annual budgets for each of the next five (5) years for all costs of operating, maintaining, and repairing CUC’s drinking water systems and wastewater systems, including the establishment and maintenance of the financial reserves described below; and*

¹ On April 18, 2025, the Stipulated Order was modified to remove the requirements for CUC to develop a wastewater treatment plant in the Village of Kagman.

(ii) A detailed descriptive plan for raising sufficient revenue to meet the projected costs as outlined in the budgets, including adjustments or increases in user fees, taxes, assessments, or other sources of revenue.

Paragraph 49 of Stipulated Order Number One for Preliminary Injunctive Relief requires the establishment of Financial Reserves:

CUC shall develop the following financial reserves for the implementation of the Master Plan:

- a. A debt service reserve shall be established and maintained in accordance with bond covenants and debt service covenants. After issuing a bond or securing a loan, CUC shall submit to EPA information regarding the amount of this reserve, including an explanation of how this amount was determined; and*
- b. An emergency operations, maintenance, renovation, and replacement reserve shall be established and maintained and be equal to three (3) months of budgeted expenses for operations, maintenance, renovation, and replacement of CUC's drinking water systems and wastewater systems. CUC shall submit to EPA for approval the proposed amount of this reserve. CUC must make monthly deposits to the reserve to ensure that the balance matches current needs. The reserve shall be used only to cover operations and maintenance expenses not in the original budget. This reserve can be replaced by the availability of an equivalent emergency line of credit.*

Background

On March 5, 2021, EPA provided Conditional Approval for Paragraph 48: Interim Financial Plan based on CUC's submittal of February 9, 2021. EPA's Conditional Approval concluded that all items of the Interim Financial had been completed, with the following exception:

- The Interim Financial Plan did not include a schedule of how to implement user fees, taxes, assessments, or other sources of revenue to guarantee that CUC can meet the projected costs as set forth in the budget (Paragraph 48.d(iv)).

Additionally, on April 18, 2025, the Stipulated Order was materially modified to remove the requirements for CUC to develop a wastewater treatment plant in the Village of Kagman. EPA no longer considers the Kagman wastewater treatment plant to be a necessary capital improvement project.

- Therefore, Paragraphs 48.b, 48.d(ii) and 65 related to financial planning no longer require financial planning for the design of the Village of Kagman wastewater treatment plant.

CUC Submittal

On August 18, 2025, CUC submitted CUC's 2025 Cost of Service Rate Study and Long-Term Financial Plan ("Rate Study"). CUC also submitted the June 23, 2025 CUC Board of Directors' Approval to adopt Option 3 of the Rate Study, which implements a 5-year phased rate increase and adjusts the government rate to the commercial rate. The Option 3 Proposed Water and Wastewater Rate Plan ("Rate Plan") approved by the Board was provided as Table IV-10 (page 109) of the 2025 Cost of Service Rate Study.

EPA Review

1. The proposed Rate Plan appears to provide a schedule to implement user fees, taxes, assessments, or other sources of revenue to guarantee that CUC can meet the projected costs as set forth in the budget. The Rate Plan projects that CUC will reach revenue neutral to fully fund its operational budget by 2030. CUC's submission therefore satisfies the requirements of SO1 Paragraph 48.d(iv).
2. The proposed Rate Plan appears to establish a reserve for emergency operations, maintenance, renovations, and replacements. SO1 Paragraph 49.b requires CUC to establish and maintain an emergency reserve account to cover three months of expenses. Based on the budget data provided in the Rate Study, EPA calculates CUC would need to establish a reserve of approximately \$6 million. The proposed Rate Plan projects an annual surplus will begin in 2031, reaching approximately \$4 million annual surplus by 2035 and is therefore projected to satisfy the reserve requirements by approximately 2033.
3. The Rate Study forecast presumes an annual rate increase of 3% after the 5-year rate proposal is in effect. However, the proposed Rate Plan does not include the 3% rate increase. EPA recommends CUC re-evaluate the Rate Plan in several years to ensure projections are meeting expectations.
4. The Rate Study analysis assumes that all Capital Improvement Project costs will be obtained through grant funding. CUC should be considering future needs for capital improvements and may need to adjust rates at a later date in the event that federal grants are not sufficient to fund necessary capital costs.
5. Customer Accounts: The number of accounts associated with water and wastewater appear to have been beyond the scope of this analysis. However, EPA is unclear why there are 11,182 residential power customers, but only 8,948 water accounts and only 1,930 wastewater accounts with only 6 multifamily water accounts (down from 452 accounts just 10 years prior in 2015). While EPA understands some homes may utilize cisterns for water supply and utilize septic systems for wastewater disposal, EPA believes a review of the accuracy of accounts is a critical component of the financial analysis to ensure that all customers utilizing CUC services are being billed accurately.

6. User Fees. Additionally, CUC should evaluate system user fees which appear to be significantly below CUC's cost of providing services. For example, EPA understands that services such as septage disposal and new service line connections are underfunded. CUC should consider an evaluation of user fees to ensure cost recovery for services provided.
7. OPA (Office of Public Accounting) and CDA (Commonwealth Development Authority) Charges. EPA is unclear on the Rate Study evaluation regarding the elimination of OPA and CDA charges and on the feasibility that this may occur. The Rate Study assumes that any cost savings to CUC from the elimination of OPA and CDA charges would be passed on to lower the proposed utility rates. However, EPA recommends that if these charges are eliminated, CUC should instead maintain the Rate Plan as proposed and utilize the savings to achieve net revenues sooner than that the 5-year projection, to fund capital improvements, and to develop reserve funds sooner than the current projections.

EPA Conditional Approval for Final Financial Plan

EPA encourages CUC to move forward quickly to adopt the proposed Rate Plan. The Stipulated Order requires the utility to raise sufficient revenue to meet the projected budget and to meet all of the utility's financial obligations. It is critical that CUC must be able to adequately maintain and operate the significant investment in capital improvement projects that EPA and other federal agencies have funded. To date, CUC has been awarded approximately \$200 million in EPA grant funding for CUC drinking water and wastewater systems. EPA expects CUC to provide budgeted expenses for operation and maintenance of all current and planned drinking water and wastewater systems, and anticipated budget expenses for planned infrastructure improvements. While the proposed budget still relies on federal funding for large capital infrastructure projects, the proposed Rate Plan appears to project CUC will raise revenues sufficient to fund operations and maintenance of the drinking water and wastewater systems within 5 years based on current assumptions.

EPA encourages CUC to also review fees for CUC services to adequately recover costs.

Upon implementation of the proposed Rate Structure, EPA anticipates full approval of CUC's submission for the Final Financial Plan (Paragraph 65); the Interim Financial Plan (Paragraph 48); and the Financial Reserves (Paragraph 49).

Please call or email me at 415-972-3518 or Tinger.John@epa.gov, if you have any questions or would like to discuss.

Sincerely,



John Tinger
EPA Project Coordinator

cc via email:

Steve Rodriguez, Acting Deputy Executive Director, CUC

Carson Madrangchar, Acting Division Manager, CUC

Betty Terlaje, Chief Financial Officer, CUC

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