



**Government of the United States Virgin Islands
Public Services Commission**

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Hon. Sen. Milton E. Potter,
Senate President
36th Legislature of the Virgin Islands

Via Email

**Testimony of the Public Services Commission, Director Setorie
Committee of the Whole**

October 29, 2025

Hon. Sen. Potter and Fellow Senators:

Given the scope of today's hearing, we will try to keep this testimony brief. The question asked of the Commission was what is "the PSC's role in the selection, capacity and type of new generation including purchased power." The short answer is that by law the Commission should have a significant role in the authorization of new generation, including purchased power, and the retirement, replacement and rehabilitation of existing generation capacity.

Title 30, chapter 1 of the Virgin Islands Code provides the basic authority of the Commission over specific utility services:

- (1) telephone service;
- (2) water supply services; except retail deliveries;
- (3) electric power service;
- (4) public marine passenger transportation services operating under government grant of exclusive franchise;
- (5) Waste management service provided by the Virgin Islands Waste Management Authority or any successor agency;

(Title 30, Section 1, as amended by Act No. 8471 in 2021.)

Section 23 of this chapter provides, in relevant part:

(a) If upon such investigation the rates, tolls, charges, schedules, or joint rates shall be found to be unjust, unreasonable, insufficient, or unjustly discriminatory, or to be preferential or otherwise in violation of any of the provisions of this chapter, the Commission shall have power to determine and by order fix and order to be substituted therefor such rate or rates, charges, or schedules as shall be just and reasonable. If upon such investigation, it shall be found that any regulation, time schedule, act, or service, complained of is unjust, unreasonable, unsafe, inadequate, preferential, unjustly discriminatory, or otherwise in violation of any

of the provisions of this chapter, or if it be found that reasonable service is not supplied, the Commission shall have power to determine and substitute therefor such other regulations, time schedule, service, or acts and to make such orders respecting any such changes in such regulations, time schedules, service, or acts as shall be just and reasonable. ***The Commission shall have power to fix, determine and require such extensions, expansions, or increases in facilities or service as the Commission finds are in the furtherance of the public convenience and necessity, and the terms and conditions upon which the same shall be made:*** provided, that no hearing shall be had and no order shall be made with respect thereto without notice to the public utility affected thereby, as provided in section 22 of this title.

[Bold and Italics added.]

Prior to Act No. 8471, the Courts in the Virgin Islands had held that the inclusion of the Water and Power Authority within the Public Services Commission's jurisdiction was limited to simply rates – not any of the decisions or actions that underly rates. The Virgin Islands Supreme Court acknowledged that its decision did not align with the interpretations and practices of the states, but insisted that the Legislature must take the curative steps; Act No. 8471 implemented the cure.

For your information, we have provided a sampling of articles regarding the authorization for new generation and the closure of existing plants. This list is just a brief sampling, from California, Florida, Mississippi and other jurisdictions.

❖ **Planned retirements of U.S. coal-fired electric-generating capacity to increase in 2025** (February 25, 2025)

- Electricity generators plan to retire 12.3 gigawatts (GW) of capacity in 2025, a 65% increase in retirements compared with 2024. Last year, 7.5 GW was retired from the U.S. power grid, the least generation retired since 2011, according to data reported to us in our latest inventory of electric generators. Coal generating capacity accounts for the largest share of planned capacity retirements (66%), followed by natural gas (21%).

❖ **Drumbeat of coal plant closures to continue in 2025** (April 15, 2025)

- These closures, driven by economics, are part of long-term company plans crafted with significant state oversight and are in line with a remarkably steady and consistent trend away from coal.
- Federal policy seeks to overrule the companies' and state process to prevent coal plant closures, a legally questionable effort that would drive up electric bills without improving system reliability.
- Rising costs for coal power, together with long-term investments in new generation resources and involvement by state regulators to ensure reliable power and reasonable rates are all providing momentum for the shift away from coal.

❖ **Nearly 1.3 GW of coal capacity slated for closure in Mississippi, Florida** (Sept. 27, 2017)

- Coal-fired power plants totaling 1,285 MW in Florida and Mississippi are slated to close in the first part of next year, two more casualties of stagnant power demand and low power prices driven down by cheap natural gas.
 - The Florida Public Service Commission on Monday approved a plan to close the 1,252 MW St. Johns River Power Park, which is jointly owned by Florida Power & Light and JEA, the Jacksonville municipal utility, Jan. 5.
 - Separately, city owned Greenwood Utilities in Mississippi plans to close its 33 MW Henderson coal plant in May.
- ❖ **California PUC approves plan to add 56 GW of clean energy resources by 2035**
- The resources are needed to meet the California Public Utilities Commission's new 25 MMT annual electric sector carbon emissions target for 2035, a nearly 60% drop from the 2020 level. (Feb. 20, 2024)
- ❖ **CPUC Sets New Energy Efficiency Targets to Continue California Leadership in Energy Efficiency (August 28, 2025)**
- **The California Public Utilities Commission (CPUC) today adopted new long-term energy efficiency objectives for California's investor-owned utilities to further cost-effective energy-saving programs that reduce energy use, lower costs for customers, and support California's climate and clean energy commitments.**
- ❖ **Long-Term Status Change (California Public Utilities Commission Order)**
- General Order (GO) 167-B requires Generating Asset Owner (GAO) to notify the California Public Utilities Commission (Commission) of any changes in long-term status of a unit. The GAO must report the change in writing, at least 90 days prior to the actual change taking place.

The Commission also has jurisdiction over certain purchased power agreements pursuant to Chapter 2 of Title 30 – the Small Power Production and Co-Generation Act. Pursuant to that authority, in 2022 the Commission mandated that WAPA execute Power Purchase Agreements for 56 MegaWatts (MWs) of solar power (two 10 MW projects on St. Croix; two 10 MW projects on St. Thomas, and 16 MWs on St. John). The St. Croix projects are now on-line, providing increased stability and lower costs. The St. Thomas projects will be on-line in 2026. The St. John project should follow shortly thereafter.

The Commission also directed WAPA to enter into Power Purchase Agreements for wind power totaling 48 MWs of capacity on St. Croix and St. Thomas; unfortunately, with the lengthy delays in these projects and the hostility of the Trump Administration to wind projects, we may not see the substantial benefits that these projects could provide.

These renewable projects also meet the goals of the Virgin Islands Energy Act of 2009 – goals which were largely ignored until these projects moved forward.

However, the most significant planning for the generation capacity currently on-going is the process for the use of FEMA grants funds, which may result in the total replacement of the St. Croix generating plant in Christiansted and the replacement of the last legacy units (non-Wartsila

units) at the St. Thomas generating plant. To date, the Public Services Commission has not had any role in that process.

In September 2024, members of the Commission and its staff met with WAPA's board. In that discussion, the Commission set forth the following questions:

- 1) What are the steps necessary to match revenues to expenses?
 - a) The Strategic Initiatives lay out one such plan.
- 2) What capital does WAPA need to implement those steps?
 - a) Even if WAPA is relying on federal grants and private investment to accomplish most of these steps, WAPA will need to have matching funds (grants) and invest in changes to its own operations to accommodate the planned steps.
- 3) How long will it take to implement these steps?
 - a) Not a "best-case" scenario, but the most realistic scenario.
- 4) What subsidy will be required to cover the structural deficit until those steps can be completed?

It is important that in addressing the short-term future, improving reliability and service standards, that WAPA also develop plans for the intermediate and long-term future so that we do not fall into the same position in the future.

Both the Commission and WAPA have been solely focused on the near-term or very short-term future – 24-40 months. But that is not even a short-term plan. As installation of new generation, new metering and other activities can be expected to take at least 24-36 months at WAPA, that is immediate planning only. The concerns are multiple:

WAPA needs to understand that it not only must become capable of operating within an affordable and sustainable rate structure, but it also needs to be able to address:

1. Future operating costs;
2. Future capital needs;
3. Ensure that current actions do not unnecessarily or excessively impair future options;
4. Existing liabilities, both Accounts Payable and long-term debt;
5. Future demands for generation, distribution and back-up services.

In addressing what WAPA will be in the future, and what WAPA's needs will be, the forecasting issue is far more complex than it would have been 30 or 40 years ago. In the past, without too much simplification, the forecast would have looked at population growth, expected economic growth, and made an estimate of increased electric demand, and decided on a means of satisfying that demand (new coal, diesel, natural gas, hydro, or nuclear power, combined with decisions on which plants to refurbish and which to retire).

Current forecasting is much more difficult. Certain aspects of the economy will increase demand (electric cars and trucks in transportation; reduced use of natural gas [or locally, propane] for cooking and heating; increased demand for air conditioning) while other aspects will see a decline in demand (increased efficiency in nearly all electric devices, particularly pumps, compressors, air conditioning, and energy use management tools and software). In addition, independent and customer generation of electricity will represent a significant increase in addressing customer demand. Consequently, overall energy consumption may increase, but demand on the utility may decline.

WAPA's future depends on its ability to meet customer needs. That requires planning, financial resources, and flexibility to meet a shifting market.

The Territory's future depends on WAPA being able to do so. If it cannot, the Territory must develop a wholly new strategy to meet the economic and social needs of the Territory.

Respectfully submitted,

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Enclosures (6)

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