Good day to the Honorable Senator Janelle K. Sarauw, members of the Committee on Rules and Judiciary: Vice Chair and Senate President, Novelle E. Francis, Jr., Alicia V. Barnes, Myron D. Jackson, Kenneth L. Gittens, Javan E. James, Sr. and Steven D. Payne, Sr., other members of the 33rd Legislature of the United States Virgin Islands, the viewing and listing audience. I am Donald G. Cole, Executive Director of the Virgin Islands Public Services Commission. Accompanying me today is Attorney Boyd L. Sprehn, PSC’s Counsel. I would like to thank you for the opportunity to testify today on Bill No. 33-0346 – An Act establishing a Management and Oversight Committee for the Virgin Islands Water and Power Authority.

As noted in this Bill, the Public Services Commission has been severely limited, and the limitation to rates effectively provides only a single and blunt instrument for seeking changes in the Water and Power Authority. The recently released FY2018 Audit demonstrates how poor a financial condition WAPA was in, and the recent rate case, resulting in the January 2020 order increasing base rates (while the LEAC was reduced) does not provide any reason for optimism that the financial condition is significantly better.

I have previously testified that the Virgin Islands’ ratepayers should not be anticipating any significant reductions in rates in the near future. Fuel costs are already at their lowest levels since 2004, so the only remaining option for lower costs in the LEAC is increased efficiency. While there is room for improvement on both islands, the recently installed Wartsila units (producing 21 MWs on St. Thomas) and the leased Aggreko units on St. Croix (producing up to 20 MWs) are very efficient. However, the remaining demand is still being met with substantially less efficient generation, and on St. Thomas, much of that generation is still burning fuel oil instead of propane.

However, the allocation of costs has changed substantially. Twelve years ago, by far the highest cost of WAPA was its fuel costs, running as much as 70-80% or more of the total bill. For example, in September 2008, the LEAC (fuel) cost was 41 C/kWh, while the base rate was only
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7 C/kWh. That is no longer the case, as at the present time current fuel costs (the LEAC) are only about 35% of the total bill for residential customers. Unfortunately, WAPA’s base rates have soared, increasing for residential customers, to 23-26 C/kWh. Despite crude oil prices having declined from a high in excess of $120 a barrel to today’s $40 per barrel, WAPA’s rates are nearly as high.

Bill No. 33-0346 seeks to replace, for a term of at least three years, the current WAPA Board with a new Management Oversight Committee. That new Management Oversight Committee will have a narrower number of members (only 5) with specific criteria required for appointment. While we applaud the desire to create a responsive and responsible Management Oversight Committee, it may be difficult to fill the specified criteria with locally available expertise. It will be difficult to find the personnel with the requisite level experience who are not past or present members of WAPA’s management or board.

We also note that the Management Oversight Committee is limited to meeting once per month. While that may eventually be a worthy goal, we note that WAPA’s current board has been meeting substantially more often, and in WAPA current circumstances considerable time will likely be required.

The planning required by Section 2(c) is a fair start. “A debt consolidation and management plan” is critical, but we note that the existing debt (as shown in the recent base rate case and in the newly released FY2018 Audit) is and will be a substantial burden on ratepayers and the Virgin Islands economy for many years to come unless substantially restructured.

At WAPA’s current sales level of 525,000 Megawatt/hours per year, addressing WAPA’s current liabilities of $1.2 Billion dollars within ten years would require a rate of $0.2286/kWh\(^1\) – just to address the liabilities – and without any interest expense. That number does not include ongoing operating costs, labor costs, or capital investment.

Work done by the Commission’s consultants show that the average price currently paid for electricity in the US (May 2020 pricing) was $0.1045/kWh with pricing by states ranging from a low of $0.071/kWh to a high of $0.281/kWh and rates in Guam and the CNMI being $0.181/kWh and $0.191/kWh, respectively. Meanwhile, the average global price paid for electricity in 2018 was $0.179/kWh and ranged by country from a low of $0.08/kWh to a high of $0.33/kWh. Those are the prices, along with reliability issues, that the Virgin Islands is competing against to attract investment.

And as we have seen over the past twenty years, the old economic models of utility operation are changing rapidly, and it is by no means certain that WAPA will be able to sustain that level of sales at a rate that will support the liabilities. The costs of alternative energy (particularly solar),

\(^1\) $1,200,000,000 / 10 years = $120,000,000 year
$120,000,000 / 525,000,000 kWh = $0.228571
525,000,000 annual sales figure from WAPA’s current LEAC filing – rounded up.
battery storage and operations software are making it ever easier to leave utility grids. Elsewhere, the old models of a vertically integrated utility that handles generation, transmission, distribution, and customer service are being broken up into the component parts. Forecasting a long-term plan and completing a financial restructuring cannot be accomplished without addressing these issues.

We also note that much of what is required here is already required by law or overlaps with existing provisions. For example, subsection (3) requires “[d]evelop an energy plan that provides for appropriate base rates”. Act No. 7075, enacted in 2009, required, among other things:

1147. Utilization of renewable technologies by electric utility

(a) The utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies where feasible and cost effective, including renewable technologies.

(b) Each electric utility shall develop and implement a ten-year implementation plan to increase the efficiency of its energy generation. The plan must include provisions for an increasing reliance upon renewable energies where they are available.

1152. Reliance upon renewable energy technologies

(a) The peak demanded generating capacity of the Virgin Islands Water and Power Authority must be derived from technologies utilizing renewable energy as defined in section 1101(f) of this title and as follows: 20% by January 1, 2015; 25% by January 1, 2020; and 30% by January 1, 2025; and the percentage thereafter must increase until a majority of the generating capacity of the Virgin Islands Water and Power Authority is derived from renewable or alternative energy technologies.

1153. Updating of Comprehensive Energy Plan of the Virgin Islands

(a) The Governor of the Virgin Islands shall facilitate the establishment of the Comprehensive Energy Plan of the Virgin Islands as required by 48 U.S.C. 1492, in conjunction with the Secretary of [the] Interior and the United States Secretary of Energy.

(b) The Virgin Islands Water and Power Authority shall coordinate with the Governor the reduction of dependence on energy imports to the maximum extent feasible and the protection of power transmission and distribution lines from damage from hurricanes and shall apply for available federal grant monies to bury power transmission and distribution lines. The Virgin Islands Water and Power Authority shall apply for the funds for feasibility studies and project
implementation authorized by 48 U.S.C. 1492 and report to the Governor and the Legislature as to any local matching funds that may be required for the federal grants.

[Italics and underline added.]

While WAPA has gone far in moving from fuel oil to propane, at the present time its propane generators are unable to burn fuel oil. That, combined with the dependence on fewer generators, as made the Territory depend on access to both fuels – it cannot operate on just fuel oil or just propane. (See § 1147(b), above.)

WAPA also has not come close to implementing the required amount of alternative or renewable energy, unless the power WAPA’s customers generate for themselves (net-metering) is included. (See § 1152(a), above.) The single solar power facility on St. Thomas was destroyed in 2017, and a new agreement just signed. It will eventually produce about 10% of the required peak demand. St. Croix is better, but still short of the goal.

The requirement for the protection of power transmission and distribution lines and application for available grant monies (§ 1153(b)) has finally been driven by Hurricanes Irma and Maria, but we are now closing in on the third anniversary of those storms and undergrounding has not yet begun. Prior to those storms, virtually no progress had been made.

While those provisions are codified in Title 12, additional requirements in Act No. 7075 included:

SECTION 5. The Virgin Islands Water and Power Authority shall provide the Virgin Islands Public Services Commission on or before October 31, 2009, or such earlier date required by the Commission and not less than annually thereafter, available data sufficient to enable generators and small power producers to estimate the Virgin Islands Water and Power Authority’s avoided energy and capacity costs. The data must be made available to all qualified facilities certified by the Commission and to the public.

Such information has been provided only sporadically, and generally has not complied with the definitions of avoided costs.

SECTION 6. Within one year after the date of the enactment of this Act, the Energy Office shall make an assessment of the renewable and alternative energy sources in the Virgin Islands and review such assessments each year thereafter taking into account changes in technology, current and emerging market trends and other relevant factors.

SECTION 7. (a) Not later than eighteen months after the date of enactment of this Act, the Energy Office shall submit the report based on the assessment under
SECTION 6 of this Act to the Legislature. The Energy Office shall update the report at least every five years and make it publicly available.

(b) The report must:

(1) Contain recommendations to foster, facilitate and encourage the development of renewable and alternative energy sources where economically and technically feasible, but especially in the areas of solar, biomass, wind, and Ocean Thermal Energy Conversion (OTEC);

(2) Indicate costs of implementation and the details of any recommended programs, and current and projected energy savings, including an analysis of restrictions or impediments to their implementation;

(3) State the results of a comparative analysis to determine the cost-benefit of using a conventional water heating system or a solar water heating system. The analysis must be based on the projected life cycle costs to purchase and operate the water heating system.

(4) Detail the leadership by example of the Virgin Islands in energy conservation and efficiency;

(5) Propose a policy framework for the use of energy efficient and environmentally sustainable renewable and alternative energy sources in the Virgin Islands as an option which can reduce the consumption of fossil fuel within the Virgin Islands;

(6) and contain such other information as may be useful in developing renewable energy sources in the Virgin Islands.

If this report has been prepared and updated, it has not been utilized by the Water and Power Authority in a manner which is obvious to the Public Services Commission. The Commission has urged and funded the development by WAPA of a Management Audit and Integrated Resource Planning. Both were completed prior to the 2017 Hurricanes, and the WAPA has been working with Black & Veatch on an updated IRP since the storms, but it has not been finalized and delivered. Both the Management Audit and the IRP have identified the use of new, smaller and more efficient generation as key – but in the several years since only the three new Wartsila units, totaling 21 MWs of capacity, have been installed on permanent basis. All other efficiency and reliability improvements have been through leased generating units.

We thank the Honorable Senator Sarauw for this opportunity to share our comments on Bill 30-0346 and we remain available to answer any questions that the Committee may have.