Testimony of
Anthony D. Thomas
Chairman
Water and Power Authority
Commissioner
Department of Property and Procurement

on
The VI WAPA Board and Financial Teams testimony on issues related to the Virgin Islands Water and Power Authority
before
The Committee of the Whole
34th Legislature of the Virgin Islands of the United States
March 16, 2021
EARLE B. OTTLEY LEGISLATIVE CHAMBERS
ST. THOMAS, U. S. VIRGIN ISLANDS

Good Morning Honorable Senate President Donna Frett-Gregory, Chair of the Committee of the Whole of the 34th Legislature of the Virgin Islands of the United States, Honorable Senators, legislative staff, fellow testifiers, and the listening and viewing audience.

I am Anthony David Thomas, Chair of the Virgin Islands Water and Power Authority Governing Board (“VIWAPAGB”), appearing with me are members of the Governing Board, the Authority’s interim Executive Director, and the Financial Team. Madame Chair, we appear pursuant to your invitation to offer testimony and to answer questions before the Committee of the Whole associated with VIWAPA Internal Audit Findings and Reports from 2014 to present, corrective measures and actions taken by the Governing Board and the Authority pursuant to those audit findings; and an explanation of the Base Rate application, and the Other Post-Employment Benefits (“OPEB”) and Payment In Lieu of Taxes (“PILOT”) Surcharge.
Madam President recently, there has been public discourse concerning the ongoing management changes at the Authority. I am very concerned that confidential information not substantiated was made public through unauthorized leaks, which can result in negative consequences for the Authority and the People of the Virgin Islands. This has the potential to undermine the faith and confidence of investors who were in conversations with VIWAPA just last week. There are serious ramifications from these types of rumors to include our relationship with HUD as it relates to recovery projects. There are people in our community, for their own reasons of personal self-interest, who do not want to see VIWAPA succeed and do not want to see these recovery projects completed.

The interim management team is in place and we are working to ensure the continuity of operations for the People of the Virgin Islands and our investors. I would like the community to know that the Board is strategizing in an organized and orderly fashion. I am confident in the employees and confident in the new leadership at VIWAPA.

While this august body can cast aspersions and discuss any matter in this public forum our team do not have the protection of this body’s immunity. It is important to recognize that we are not able to provide specifics on any ongoing investigation, personnel matters, or on any internal audit findings that have not been fully investigated. As a word of caution, this chaos in the public is damaging to the work which is ongoing at VIWAPA as it relates to financing and potential investors.
The public discourse of unsubstantiated rumors or accusations will continue to be a detriment to the Virgin Islands if it is the 34th Legislature’s desire to continue any unsubstantiated discourse in a public forum.

The Bryan-Roach Administration is committed to transparency, stabilizing the economy, restoring trust in Government, and ensuring the disaster recovery is completed as quickly as possible. To that end, the Governor appointed (4) four individuals to the current Governing Board with a plethora of skills to augment the Board’s composition. The Board of (9) nine is comprised of (6) six private citizens/business owners and (3) three public appointees. While this Administration has advocated for change, this Administration has not advocated for the sale of the Authority for pennies on the dollar.

The Bryan-Roach Administration’s focus is on the transformation of this company, and it is to put the Authority back onto a sound financial footing, and to build an operational plan that includes renewal energy, clean energy, and one that can meet the needs of those we serve by providing affordable and reliable service. And while there are many things which must be done, the steps that we take are all for that mission and dealing with the intricacies of operations is not part of the Governor’s bigger picture. He is focused on the transformation of the company. And he knows that certain changes must be made, including management changes, to get there.
As previously stated in our testimony on the February 23, 2021, during the Committee on Disaster Recovery and Infrastructure hearing. VIWAPA has access to funding that it never had, managed in conjunction with approval processes guided by the granting agencies i.e., FEMA and VIHFA/HUD. The Authority has made tremendous progress towards the development of an infrastructure that will reduce utility cost, create sustainable generation, and promote the use of reusable clean energy i.e., solar and wind for the People of the Virgin Islands.

Currently, the authority has a total of 39 mitigation disaster recovery projects, and 12 water related mitigation projects, slated to begin in 2021 and conclude in 2025. These projects will improve service reliability, improved water quality and infrastructure, and expand services throughout the Territory to our customers. The authority has 27 electrical related mitigation projects, some ongoing that will continue through 2024. These projects will improve service reliability, reduce the cost of energy, reinforce the infrastructure, and increase the use of renewable energy sources.

Audit Findings and Corrective Actions

The below table provides an overview of the Audit Findings completed by the VIWAPA internal Audit division from 2014 through 2021. There were (7) reports completed, and significant corrective actions were taken to address matters uncovered by the Authority’s audit findings. The corrective measures include a new
credit card policy, a new wire transfer policy, and the Zero Tolerance Anti-Corruption policy. This table does not include any matter that has not yet been completely investigated or that are under investigation within the Authority.

<table>
<thead>
<tr>
<th>Report No.</th>
<th>Report Purpose</th>
<th>Date Report Issued</th>
<th>Corrective Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015-IA-0001</td>
<td>Investigative Report Director of Customer Service</td>
<td>December 2014</td>
<td>Disciplinary Action Taken</td>
</tr>
<tr>
<td>2016-IA-0001</td>
<td>VIWAPA Unofficial use of Authority’s Credit Card</td>
<td>March 2016</td>
<td>New Credit Card Policy Implemented</td>
</tr>
<tr>
<td>2016-IA-0001-A</td>
<td>Supplemental Credit Card</td>
<td>April 2016</td>
<td>New Credit Card Policy Implemented</td>
</tr>
<tr>
<td>2017-IA-0001</td>
<td>Inappropriate Conduct St. Croix Line Superintendent</td>
<td>April 2017</td>
<td>Disciplinary Action Taken</td>
</tr>
<tr>
<td>2019-IA-0004</td>
<td>VIWAPA Audit of Wire Transfers</td>
<td>September 2018</td>
<td>Policy Developed and Implemented</td>
</tr>
<tr>
<td>2020-IA-0002</td>
<td>T&amp;D Director, Formally the Manager of Automation and Operations Allegedly violated conflict of interest ethics policy</td>
<td>July 2020</td>
<td>Zero-Tolerance Policy Disciplinary Action Taken</td>
</tr>
</tbody>
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**Explanation of Base Rates, OPEB, Pilot Surcharges**

The Legislature of the Virgin Islands created the VIWAPA as a public utility to provide, *inter alia*, electricity and water to the public as an autonomous instrumentality of the Government of the Virgin Islands, and the powers of the Authority are exercised through its Governing Board. Therefore, regulation provides the necessary oversight of the prices or “rates” charged to rate payers. Regulators
are expected to ensure that rates are reasonable and just and provide a sufficient means for the regulated entity to meet its obligations.

The Authority is required to submit a petition for a rate adjustment to its rate regulators, the Virgin Islands Public Service Commission (PSC), no later than once every five years. However, if there is a need for increased prices, the Authority can submit a petition for rate relief sooner than 5 years. The base rate review process is an extensive, public process that evaluates all the Authority’s revenue requirements (costs) utilizing a future test year period. The approved rates should be sufficient to provide revenue that would allow the Authority to cover its operating, financing, and rate funded capital costs. In addition to the requirement for timely filings, the Authority’s rate covenants specifically require the Authority to seek rates that will allow it to meet the established debt service coverage ratios.

To remain in compliance with the required timeline (as well as ensuring there are sufficient rates to meet our needs), the Authority submitted base rate petitions in 2015 and 2019. The 2015 base rate case resulted in the approval of temporary rates in February of 2017 that was eventually made permanent in May of 2017. The rates sought in the 2019 rate case were approved in January of 2020 and remain in effect today.

**Community Disaster Loan (CDL) Surcharge:**

Following the 2017 devastation of Hurricanes Irma and Maria, the Authority was forced to seek and received $92 million in loan proceeds from the Department
of Homeland Security Federal Emergency Management Agency (FEMA), in the form of Community Disaster Loans (CDL) to meet its operational expenses. The CDL proceeds were pre-approved by FEMA and the US Department of Treasury. Using those proceeds, the Authority was able to pay critical operating costs such as fuel purchases, payroll, water purchases, and other critical services.

In April, the Authority intends to file a petition with the PSC for a CDL surcharge. The surcharge will allow the Authority to collect the rates needed to pay for the debt service and associated costs for the CDL. The proposed surcharge is $0.020570/kWh which will result in an increase of $8.23 for the typical residential customer utilizing 400 kWh/month. However, the Authority is reviewing our current expenses and future financial plans to find ways to mitigate this cost rather than passing the cost to the ratepayer. We understand that currently, our community has been impacted by increased rates. Thus, we will continue to seek viable alternatives to the one proposed.

The table below represents the Authority’s current rate structure including the following consumption charges for residential customers:

<table>
<thead>
<tr>
<th></th>
<th>Base Rate for &lt;250 kWh</th>
<th>Base Rate for &gt;250kWh</th>
<th>OPEB</th>
<th>PILOT</th>
<th>Self-Insurance</th>
<th>LEAC</th>
<th>Total Residential Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0.231577</td>
<td>$0.257775</td>
<td>$0.002166</td>
<td>$0.000686</td>
<td>$0.001925</td>
<td>$0.149417</td>
<td>$0.383605</td>
</tr>
<tr>
<td>Total Residential Charge</td>
<td>$0.383605</td>
<td>$0.411969</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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As identified above, the Authority’s rate structure includes other surcharges in the current rates are as follows:

**Other Post-Employment Benefits (OPEB):**

This surcharge was established to pre-fund the Authority’s unfunded liability of post-employment benefits (outside of pension) such as life insurance, vision, dental and Health Insurance. Pre-funding this liability is a best practice for local governments with large unfunded liabilities. It is also a recommendation by bond rating agencies.

**Payment In Lieu of Taxes (PILOT):**

This surcharge was established to allow the Authority an opportunity to gain revenue to meet its tax obligations to our local government.

**Self-Insurance Fund:**

This surcharge was established to assist the Authority in the most critical of times. It was designed to provide a buildup of revenue for any damages that occurs to our uninsured transmission and distribution system.

**The Fuel Adjustment Clause (widely known as LEAC)**

Allows the Authority to accumulate revenue to meet our fuel needs. Fuel (our largest operating cost) is a volatile commodity. Any changes in price or output directly affects the Authority’s cash flow. The LEAC was created to capture any increases or decreases in the cost of fuel and fuel-related expenses.
Let conclude by stating, nothing I have said implies that this body does not have oversight or have the right to conduct fact finding investigations on any subject or matter on behalf of the People of the Virgin Islands. The unsubstantiated discourse concerning VIWAPA in this context is a very serious matter and no one in the listening and viewing audience, the 34th Legislature, or testifiers should take this public hearing lightly. This body has the responsibility to conduct this inquiry with the utmost care not to damage the work that has been ongoing and the reputation of the United States Virgin Islands. As a fledgling democracy managing our destiny through democratic rule for only 50 years, this exercise can cause irreparable harm to this public institution and to the Virgin Islands; therefore, testifiers must be allowed to bring clarity to questions asked on behalf of the People of the Virgin Islands.

Madam President, this concludes our prepared testimony, we are ready to answer any questions the COW may have.