



PSC Regular Meeting - Tuesday, September 30, 2025

Public Services Commission (PSC)

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- 0:00:00 Thank you. Thank you. all right good morning again we're back in the regular session we just came out of an executive session where we discussed legal matters and threatened litigation no decisions were made we just got update from legal council so we're going to resume our agenda and the next item on the agenda we're going to recognize mr spainer and st corey an introduction St. Cory, are you with us?
- 0:01:50 You're muted, Jameel. Cassie is open. So can you hear me? Yes. Yes. Yes. Good morning, commissioners. On the Zoom call today, we have Miss Isabel Winstead. She's our new Energy Innovative Fellow from the Department of Energy. She replaced Miss Solange Comacho, who was with us last year. so she's going to be on board with us start she's starting now but she's relocating by november she will be in the office here at st croix um miss isabel winstead she has a background of economics and some experience regarding in uh public commissions um if she's online now she can speak miss isabel winstead are you online I don't see her there anymore.
- 0:03:16 All right, well, we'll come back to the when she's online. All right, we're going on to item number two, the consent agenda. good morning brenda kind of comes to the intelligence officer uh we would like to enter um the assessment on the following documents that it's five eight nine choice by telcom applications for etc certification six hundred five dollars and seventy nine cents that is six six nine broadband bi uh two thousand five hundred thirty dollars that is six seventy liberty and AT&T applications for EPP certification, \$1,950. That is 691, St. John's Ferry Raid Investigation. Transportation services will be \$7,050. And Vala Ventures will be \$7,050. That concludes the consent agenda.
- 0:04:21 All right. Any objections to the closed assessment? No. hearing none by acclamation is approved thank you next item number three annual assessment fiscal year 2026 annual assessment um staff recommends that the commission enter an order for the 2026 annual assessment for the operations of the public services commission office the assessment the total budget is two million seventy nine thousand two hundred ninety dollars and fifty one cents the assessments and the regulated entities are as follows virgin islands water and power authority one million seven hundred sixty two thousand one hundred twenty eight dollars and fifty two cents um one communications uh one hundred and thirty one thousand eight hundred eight dollars and eighty seven cents um one communication st thomas and john cable sixty five thousand

fifteen dollars and sixty eight cents one communication st croix cable what are you looking at oh i'm reading we don't have those numbers The Virgin Islands Waste Management Authority is \$19,341.32.

0:06:02 For our adventures, it's \$34,362.68, sorry, \$34,362.68. Transportation services of St. John, \$23,022.48. So for a total of a 2026 annual budget of \$2,079,290.51. that would be the annual assessment of the 2026.

0:06:37 Any questions or comments? All right. Can I get a motion to approve the 2026 annual assessment? Allotations. Moved by Commissioner McGrath. Is there a second? Second. Second by Commissioner Sam. discussion there are none we'll call commissioner mcgrass yes commissioner laura nicole sams yes commissioner raymond williams commissioner raymond williams commissioner david hughes yes commissioner pedro williams yes mr chair we have four voting epa to accept the annual assessments All right, thank you. Thank you, Ms. Conner. We'll move on to item number four, Waste Management Matters, Dr. 708.

0:07:40 Who speaks to that? Apologies, took me a minute to get my microphone working. Docket 708, unfortunately, we've had to report that the potential hearing examiner, Lauren Klieger, has instead withdrawn from the position or the offer, and we are now in the process of once again looking for a hearing examiner for this matter. that it's becoming problematic but we we have no hearing ever currently offered to fulfill this role okay okay so have you done anything regarding a search uh i we have done several things in the past to look for it i i cannot i i i have to say i'm a little a loss here i've been on vacation for a couple weeks i can't tell you what's been done in the last couple weeks since we received uh mr klieger's notice that he was withdrawing his name um it is something that is certainly a high priority for me but i i can't tell you what's happened until i get back to the office

0:09:31 when did we receive attorney cleger's notification of withdrawal number 17. was there a reason given no had he accrued anything i should i should qualify that he said the press of other matters made it on it impossible for him to go ahead and accept this work at this time had we uh accrued any billings to that individual no okay if there's none else on that matter we can move to docket 692 I believe I indicated that the new executive director for waste management called me last evening, asked to be excused that he's new in the position and he has not had time to be brought up to speed on this matter, so he asked us to continue it until the next commission meeting, assuming there's one next month in October, and I indicated to him that we would. um but is there anybody else on the line to speak to that matter uh if i may chair oh go ahead i i would note that ast has had this matter pending before the commission for nearly two years, roughly two years at this point. We have been trying for about the last three months to get a meeting with Waste Management to discuss this, and this is where this matter has been stalled and suspectably is reaching any sort of agreement with Waste Management

0:11:26 on steps to move forward. We recognize that there is now a new Directorate Waste Management, but Waste Management has been the holdup in it in deciding whether this is a project that should proceed or not um so i think we need to convey to the new executive director very strongly that this needs to be a matter of some urgency in his attention uh mr spain is there anybody from waste management in st corey yeah contact room is empty yes go ahead sorry chair um there's no one from waste management here on thank you and then um the young lady that's going to be our fellow she's back Good morning Chair, this is Jason Levescon with AAST. Just to add to Mr. Sprain's points, the funding for the project on St. John still remains in place. This is part uh private equity and part uh financed we also one of the primary uh elements that we need to put in place as well as what mr sprain uh told you is uh the purchase power agreement which derives everything else out of that one agreement um including the supply agreement uh the land lease agreement from waste management authorities so that also i know this is not within the waste management docket here but it's shortly coming up and i think that that also needs to be given some degree of urgency as well as as i say it derives everything else

0:13:48 when was the last time you had a meeting with anybody from waste management I would say would be when I visited St. Thomas, the Bovoni landfill, with Miss Hendricks and the engineer. That would be approximately March of this year. Is there a draft lease agreement?

0:14:28 No. We haven't seen one at this point. And you have not proposed one or submitted one? No, we have not. As I said, I think the land lease agreement, even a draft of, would be predicated by the purchase power agreement and and usually that's a draft that waste management would provide i'm a little confused the the power purchase agreement is is a a water and power authority agreement if i may mr chair go ahead mr attorney spain yes we've had discussions psc staff has had discussions with wava's management regarding uh a power purchase agreement uh waste manager excuse me wapa has indicated they have no problem accepting the amount of power that would be produced by the proposed facility on St. John. The dollar amounts of the proposed amount for power purchase agreement is something that the commission sets. It would be based on the avoided cost of WAPA at that time. I don't want to give numbers out here now, but we have a number of models for power purchase agreements. So drafting a power purchase agreement should not be in any way a lengthy time problem it's simply setting the final dollar amount that would be involved in the purchase price per kilowatt hour of delivery the proposed project is a base unit it would be on 24 7 much of the year most of the year it would be a

minimal amount of power it would probably provide some baseload security on st john but it would not substantially change wapa's overall consumption

0:16:30 and and just to add to that chair uh the draft purchase power agreement was provided to us by wapa um i would say i wasn't around at that time but uh i would say around about a year and a half ago and and essentially we've accepted the terms of the purchase power agreement as mr sprain says it's really just uh confirming the the rate um that we're allowed to sell electricity back to wapa have you executed for purchase agreement with wapa not executed we have a draft in place does that draft have pricing yes okay so so it seems like we ought to be able to uh cause some progress here with wapa um we're responsible for the amount uh although they can certainly propose it and and you say your project is somewhat predicated on the execution of this power purchase agreement that's correct i don't quite understand if you know the numbers what would the lease have to do with the power purchase agreement i think one of the appendices of the the purchase power agreement provides the agreement for the land lease to be established within the purchase power agreement. That's the only link between the two.

0:18:03 Yeah, I'm not sure why that would be a matter for a power purchase agreement, but be that as it may, we still have to get waste management to be responsive. Can I just ask a couple questions about the waste management situation? are you least proposing to lease the land from waste management authority the site at um on st john where they transfer their waste existing today okay so how would it affect your project um if this project you know st john is a special place and and from a development standpoint if you were to move this project over to st croix where you had virtually a scalable amount of of of waste to work with how would it affect your project are the tipping fees substantially different and and a driver here no there's there are no tipping fees as part of the agreement uh this is essentially selling power or indeed liquid back to the market. We can go either way. So there's no tipping of fees associated with St. John. We haven't contemplated St. Croix, but essentially this is what it is. The economics are baked in around selling a reasonable rate back to the grid.

0:19:37 Yeah, that rate's not going to change, whether it's St. John or St. Croix. It would be nice to know what the objections of waste management to this project could possibly be. They're not having to pay to dispose of waste, which would be typical. They have land in both places, a substantial amount of land available in St. Croix. There's an almost unlimited supply of municipal solid waste for your purposes in St. Croix. and i think you're substantially taking most of what you can use in st john so does anybody know why waste management seems to be having such a hard time coming to the table and expressing their thoughts here anybody yeah i i think the psc has a role here to compel that I'm being told that there's somebody from Waste Management of St. Corey.

0:20:37 Hey, good day everyone. Daryl Griffith, Chief Financial Officer here. I'm here with Barry to Saldana, the Executive Assistant for Waste Management Authority. Hold on, hold on, hold on. I'm going to ask you to raise your right hand to be sworn. sure do you solemnly affirm that the testimony and evidence that you are about to give is the truth the whole truth and nothing but the truth so help you guys yes okay mr griffith we understand from the news that there's a new executive director for the waste management authority is that correct that is very correct sir And you're testifying today and making this presentation with the approval and consent of the new executive director. You're speaking on his behalf.

0:21:35 I am. Well, I'm not. I wasn't aware that this would be part of the conversation, so we did not have that discussion. I don't understand your response. You did not know that what was going to be part of the conversation. the the current firm uh in front of us that's um interested in um i think purchasing trash from waste management authority you did not receive the authority did not receive a copy of the psc's agenda for today and will number four be that list ast clear clean tech on the agenda on the waste management matters on the waste management i must have mislooked at because uh what what i saw was the um the the agenda item on fees maybe that's because i i was just looking at it with my cfo hat but that was the only thing that um stroked my attention on these waste management so my apologies but that was the only thing that we discussed are you in a position to to respond to our interest in why you haven't uh engaged with this entity you have a legal obligation to do so they have a qf designation you you're illegally obligated to to negotiate in good faith with an entity that has received a qf designation yeah i think the two times we scheduled the meeting with them they had to be rescheduled um i think the last time it had to be rescheduled because of what was because the the authority was closed or the government shut down the government shut down because of the storm delays so we have no um there there's no issue in us i'm sitting down with them the what's going to have to happen though is that over three other companies have presented similar ideas to us within the last 12 months that have been on the interim ED. So we're going to sit down with them and then bring all

0:23:46 this to our new executive director and see how we can equitably present what we have to all the entities and and and make a fair decision so most likely it'll have to go out at some type of procurement well i don't know what you're procuring you're you have no financial commitments under this there's only one company with a qf designation we've already passed the point at which we were debating whether or not you're going to talk to this entity these projects are not

mutually exclusive they're essentially at this level a lab project there's no significant commitment of waste i don't think you have any other solutions over on saint john being proposed i i don't understand the reluctance of the waste management authority to to act in good faith in this discussion you've had we're going on years with this now you know it's great that people keep showing up you know solid waste uh waste energy is uh you know pretty established but you can play this game forever um mr griffith and and never enter into a substantive discussion i'm kind of tired of it well there is no reluctance on our side to have the discussion so it's it's a land lease for a lab project how hard could it be this entity isn't even asking you for a tipping fee they're they're offering to dispose of waste which you otherwise have have a direct cost to dispose of i i don't understand what could possibly be the reluctance of taking them up on their offer we haven't met with them to hear the offer yet that would seem to be a problem uh on the part of the waste management authority i don't know how long it takes for you to actually schedule a meeting and meet with someone apparently years so we've been talking

0:25:42 for years you've been talking to different people for years so i've been talking to you for years actually in your capacity as director and you were unable you weren't able to address the responsibilities of the of the authority i've only been the director for 12 months so it's impossible for it to be here sir okay well 12 months all right hold on hold on mr griffin can you offer the company three days now that they can meet with you or whoever's the appropriate policy sure i would say it would be the executive director on this one it would be the executive director to meet on this matter because i'm back in my role as the cfo so miss barnes right next to me um beside that right next to me can um look to see if there's some available time on the eds calendar now and then we can give you a couple of dates for them to sit down with the leadership team especially the solid waste team to go over this can you pull it up and see what days would work and just we'll give you three days and we'll go forward from there of course um for the record verita saldanya special assistant to the executive director i would prefer being that um this week will actually be three weeks that mr weir is on board with the Waste Management Authority. Rather than giving a date right now on his availability, I would like to get back to you guys with that if it's okay.

0:27:18 No, it's not okay. I want you to give the company three dates now that's available. This has been dragging on long enough. Mr. Ware will make himself available to speak to them. Okay, I'm looking at that now. While that's happening, the young lady, Ms. Isabel Winston is back online, the fellow for the Department of Energy. So I don't know if you wanted to have her introduce while we're waiting for the dates.

0:27:59 want to do this well let's never sell them okay um and the meeting have to be in person am i correct yes so it has to be in person not to be by teams right i don't have a preference jason do you have a preference sorry i'm struggling to get off the mute uh thank you chair um no preference will accept all options okay uh the first date tuesday october the 21st that works for us one time 10 30. what was the date again please october 21st uh the second date that i would like to propose thursday october the 23rd also accepted at one time 2 30 in the afternoon accepted and i'll provide one more day Thursday, October the 30th.

0:29:46 That's fine. 9 o'clock. Also fine. Thank you. Any objections? We'll leave it up to y'all to work out the details. If it's going to be in person, send... I can't pronounce your last name, so I'll just say Jason. send jason an email confirming place and at the time if it's going to be by um electronically sending a zoom link or an electronic link or teams i think it should be teams i think it should be teams in case um anybody else wants to sit in on the meeting yeah mr mr chair any objection to uh mr springer attending from anyone mr springer attending this meetings if it's appropriate i'm not sure whether it's appropriate i i think it may be necessary that we understand the objections of the authority this is kind of a policy discussion at this point and that that makes it a psc discussion um this isn't as simple as just disposing of waste we've been looking at waste management for years it's right in the crosshairs of of regulating the authority um i think so so if you'll include mr spain in those in that conversation all the five of the meeting is going to be and how it's going to be conducted whether in person or electronically so that he can attend or participate okay all right anything else on this matter from anybody uh thank you thank you item number five on the agenda telecommunication matters oh i'm sorry yeah thanks here it comes mr springer yes good morning again commissioners um i would

0:31:47 like to introduce you to isabel winston she's our new energy fellow from the department of energy she's replacing miss solange comacho which was our old fellow from last year so she's online right now and i'll let her introduce herself and a little bit of her background hi you guys like jamil said my name is isabel winstead i am the new eif fellow i'm super excited and grateful to be here my background is from uc berkeley i got my back how about now we're doing good okay let me know if i cut out again um i will be in person in exactly a month so we can we can run this back again and maybe grab some coffee and get acquainted more deeply later uh but i'll just repeat what i said for now if that's okay yes i am the new eif fellow i got my bachelor's of science in environmental economics and policy where my research interests were utility reform energy democracy and the energy transition and i'm super excited to get some more experience here and

learn from you all i've looked into you all a bit and i'm very impressed by your backgrounds and hope to one day have the same sort of position that you guys are operating in so far in my first month i've built out a descriptive statistics report that reviewed the previous decade of the generation mix on island and also the rates for the last decade and created a brief report for that but i'm also working on time of use rates for evs by comparing what we could do on island to a couple case studies and typical utility policies for time of use and i'm also looking into building out sort of a cost analysis on how much it would be to perhaps retrofit some of the ev charging

0:34:00 stations we have on island with solar so we can sort of ease the the burden of having the funding from the department of energy run out for making the eb chargers free for people to use and i'm excited to see what other projects i take on um in my first year and i'm really excited to be listening in on this meeting i already learned so much from um item four with the waste management matters and yeah if you guys have any questions let me know hopefully that's a sufficient introduction to me thank you well welcome aboard we're happy to have you i look forward to your good work on behalf of the commission over the next year so welcome thank you so much that means a lot um and then yeah if you guys uh want to meet up in person when i'm on island i'll be there in November so i'm excited to shake your hands in person and to get acquainted face-to-face all right looking forward to it thank you thank you all right thank you Ms. Winston we're now going to move on to item number five telecommunication matters docket five eight nine and six six four right telecom post communications who speaks it up morning commissioners this is mike neely from vantage point uh i'll speak on behalf of staff if that's all right go ahead all right thank you pursuant to fcc regulations any state or territory that wants its federal high-cost ETCs to continue to receive Federal Universal Service Fund support, they must file an annual certification with the FCC and with USAC that those ETCs in their territory use the support

0:35:56 in the preceding calendar year and will use the support in the coming calendar year only for the purposes for which the support was intended. So this is an obligation actually on the states and territories to make that certification to the FCC and USAC or else those high-cost ETCs in their territory will actually lose the support. But it's the obligation of the ETC to prove to their state or territory that they use the support as intended so that they can in turn certify to the FCC and USAC and this certification must be filed by October 1 annually and failure to do so or a willful decision not to do so will result in the ETC's losing support on a pro-rata daily basis until certification is made. Vantage Point Solutions, which is the consulting firm I work for, was retained by the commission staff to assist in reviewing the high cost support use in the territory and to submit reports to the commissioners with recommendations on whether to certify their epcs i submitted those reports on september 12th to the staff for commissioner review as well and hopefully you've had a chance to review them there was a confidential and public versions Before getting into each company specifically, I wanted to briefly describe my methodology. To prepare the reports, I reviewed publicly available data regarding each company, their USF disbursements, the details of the specific programs that they participate in, FCC orders, regulations, all describing their programs and their requirements.

0:37:48 i also had discussions with the vipsc staff as well as representatives from all the companies themselves i also prepared a series of discovery requests that i submitted to both atn international which is the holding company of vitalco vitalcom and choice and i also submitted data request to liberty mobile which owns bbvi and the liberty mobile entity that purchased at&t mobility both of the companies were very responsive to my questions they provided me all the data that i requested after my initial formal written discovery i did submit some follow-up email questions to each company and again both of the companies were very responsive to my questions and gave me all the information i needed so then i took all the data that i received to prepare my reports and for the commission's information, all of the federally required reports are filed in an FCC docket. It's a WC docket number 18-143, which is the ConnectUSVI fund docket. And i'll probably reference that docket a couple more times for each company. So with that introduction, let's get into the first company on the agenda which is vitalcom cellular and choice communications these two companies both operate under the via wireless trade name so for my report i consolidated all their data so via wireless receives connect usvi transitional support for mobile service

0:39:34 the stated purpose of the support is to improve redundancy and resiliency of facilities for 4G LTE or better technologies to ensure continuity of service by preventing or withstanding damage from disasters, including the maintenance of backup power systems for such networks. Recipients also have the obligation to maintain their service area coverage as it existed prior to Hurricanes Irma and Maria in 2017.

0:40:06 BioWireless received \$56,418 in 2024. They should receive \$33,848 in 2025 and \$33,848 in 2026. Now, the reason for the reduction is that the transitional support was originally supposed to be a phase down over two years from 50% down to 25%, ultimately ending June 2025. However, in August of 2024, last year, the FCC decided that it was going to roll USVI mobile support into the 5G for Rural America fund, and that it would go ahead and maintain that 25% support level until they decide what they're going to do with the 5G fund. And preliminarily, it sounds like it's going to be an

auction-based support system, and that once the awardees are selected, they'll phase down this support over another two years. But again, that's just kind of their initial proposal, and we're still waiting on final determination, and I'm not sure when that's going to be.

0:41:18 So some of BioWireless's high-level information is publicly available in the 18-143 docket, but some of the more specific information was labeled by the company as confidential. The data that I reviewed shows that they spent over \$63,000 on backup batteries at different cell sites across the territory. and if you look in my actual report it shows the the locations where they were but they were again they were labeled confidential bio wireless also certified in the 18143 docket that they meet the geographic coverage area requirement and that they have been properly updating their territory through the broadband data collection portal they also provided me their coverage reports that they had to file in 2018 and 2019 during that original restoration period when they had to phase it up from 66 percent coverage up to 100 percent and those were all approved by the fcc and i'm satisfied that they are complying with all the requirements of the program and so based on all the evidence i saw i am recommending certification for via wireless um i'd be happy to take questions and i believe their company reps are also here if you need more specifics again i don't want to breach any confidentiality so if there's something really specific uh you may see if you can get authorization from them to to say what those are but again happy to take questions and i would recommend approval for them for certification all right thank you sir questions commissioner hughes

0:43:07 no none for me mr sam yeah no question i have a question um how much money were they to receive in 2025 uh 2025 33 848 have they received those funds they've been receiving them monthly um i just had to extrapolate out what it would be through the end of the year based on their current draw it wasn't clear to me from your report whether they have received the funds or they were just still waiting for that nope they received them yeah and uh again my original report i thought the program was expiring june 2025 i'm sorry my report from last year i said there the program was ending june 2025 but there was a interceding order uh to continue the program so they're going to keep receiving this 33 000 figure uh until the 5g fund is dealt with and i actually confirmed that with usac themselves so they did receive the funding and the program is still ongoing uh on a on that transitional support level so okay you also indicated that some information was labeled as confidential i say yes yes um so when it's labeled confidential do you have access to that information yes i do yeah they provided me with so in the discovery process you know if there was something that i found publicly uh that wasn't available to me i requested the confidential versions and they were they were sent to me so so you got all the information you needed in order to prepare your report am i correct yes all right thank you sir

0:45:10 all right no further questions is there motion i move that the application for um the via group of companies for eligible telecommunications carrier status be approved the second the application by commissioner q seconded by commissioner mcgras will call sure commissioner clement mcgras yes commissioner laura nicholson yes commissioner raymond williams commissioner raymond williams commissioner david hughes yes commissioner pedro williams yes chairman williams we have four voting yes to approve the etc certifications thank you i'll move to docket 556 vitalco next on the docket is vitalco vitalco receives legacy frozen high cost support for price cap carriers The FCC decided to phase down support for this program from June 1, 2023 until December 31, 2025, when the support will end unless an extension is granted. As you may recall, ConnectUSVI Fund Stage 2 for fixed locations was intended to replace this legacy support, And that support was awarded to Broadband VI. Subsequent to filing my reports, Vitelco did file a petition at the FCC on September 24 of 2025 under their new OneCom trade name.

0:47:00 And they were seeking a one-year extension of the support that they get, basically arguing that because BBVI is not meaning their build-out milestones, that there's a continuing need for support so it's possible that this this support may be extended in some way that was kind of a new development after i submitted my reports vitelka received five million four hundred and fifty three thousand five hundred and eighty dollars in 2024 they should receive the exact same amount in 2025 and zero dollars in 2026 unless there is some kind of extension granted uh partially or in full from the fcc we'll have to wait and see on that during the you just said vitalco um are we discussing vitalco here or liberty mobile uh this is vitalco okay um so for the phase down period of vitalco support it is intended for resiliency and redundancy measures and to maintain their footprint for voice and broadband service as of June 1, 2023. And more specifically, the FCC required Vitelco to actually submit a list of resiliency and redundancy projects that they were going to complete with the money. And Vitelco is required to report on the progress of those projects.

0:48:35 and Vitelka will also have to refund any money that is not used in accordance with that approved program. Their spending plan that they submitted was approved on April 3rd, 2024. I was provided confidential copies of the approved spending plan and those projects listed and the estimated costs to complete those projects. I was also provided confidential copies of vitelco spending reports showing their progress towards project completion these documents are again available in public form in the 18-143 docket and the full information uh in the cop is in the confidential versions

of my report however again most of the information is labeled confidential so i'll just discuss at a high level essentially vitelco has made progress on its project list however they did have a major project at the tutu central office that was not on the original list and they asked the fcc for a waiver to get recovery of that and there's no fcc order out there that approves or denies that their waiver request but vitelco told me during discovery that the fcc paid for it and so it appears that it was approved via implication. And review of the data shows that Videlco continues to use its funding towards resiliency and redundancy measures as they're required. And they have until December 31st, 2026 to complete its spending. And again, any unused funding will have to be returned to USAC.

0:50:25 So there's very little risk that any money is going to be used improperly because the FCC is going to disallow it if it's not supposed to be used for it so i haven't seen any issues or evidence of improper spending so i am also recommending approval for vitelco and again i believe their company reps are here as well but happy to take questions and recommend approval thank you mr neely commissioner hughes yes in the event that the uh the request for the additional the extension is approved does that have any effect on any other carriers receipt of funds in the territory is it a swap out of funding or is it additional funds uh i mean it was kind of a lengthy pleading but my recollection is it would just it wouldn't affect anybody else it would just continue their support so it'd be extra uh like it wouldn't reduce bbv bbvi's support if that's what you're if that's what you mean it would just be an additional year for vitelco so this would essentially mean additional funding to the territory not a net zero uh effect correct okay yeah not as far as i could that as i remember commissioner hughes this is paul carupas with one communication um just to clarify If you're going to speak, you have to be swarmed, sir. Sorry about that. Great.

0:52:03 Do you solemnly affirm that the testimony and evidence that you're about to give is the truth, the whole truth, and nothing but the truth, so help you, God? I do. Thank you. Sorry for the interruption. um so it is correct that we are just seeking to extend the funding which would constitute additional funding for the territory and not uh it's not a zero-sum game um when the FCC originally awarded us the transitional funding it was linked to the progress that Liberty was making on its deployment to the stage two deployment project that the fcc is funding for liberty and there were some assumptions built in relative to liberty's progress but as this commission is aware that liberty has not met the milestones that were set out in the project and so we have asked the commission to extend our funding pending the achievement of those milestones but it would be funding in addition to what liberty is receiving so nothing in your application is a request that the fcc divert funding from liberty correct no no diversion just additional thank you chair i don't have any further questions yeah so what type of redundancy projects were being funded with this month So at the original outset, when the FCC granted the transitional funding, we were looking at a number of measures intended to provide backup operation to the wireline network.

0:53:54 So that in the event of a storm, the restoration of the wireline network could happen more quickly. Since that time, though, since the time of the original submission, you know, I think, as we are aware, the Water and Power Authority is having some challenges relative to the grid and maintaining that on a consistent basis. And so we've been seeking to shift some of our emphasis towards power solutions, because that is an increasingly difficult challenge for us and our customers. And so we are trying to shift the emphasis more towards power resiliency than anything else. Thank you. Thank you.

0:54:49 yeah thank you mr neely you testified that um the company had requested a waiver for some work at the i believe the tutu central office is that correct uh i didn't hear the first part of your question they they um when they submitted one of their spending reports they had a very large spend on that uh tutu engineering central office and they they did put that they were requesting a waiver because it wasn't in their original approved list of projects so that when they submitted their original list there was a listing of projects and what they were going to do and this was not in that list and so they explicitly asked for a waiver and I never saw an order approving it or denying it in any way and the company said that the funding was was given to them and it wasn't withheld so my understanding is approved but i don't have any formal documentation from the fcc maybe maybe paul could uh yes again before we go to paul mr neely i'm with you um based on my understanding from your report my question is are you aware of any federal regulation that governs this that says a project can be approved by implication like a procedural fcc procedural regulation i mean you're the expert i'm actually i don't know um based on your knowledge when a person made the request for a waiver what do the regulations provide do they have to wait for the FCC to approve it if there's no FCC action within a certain number of days is it automatically approved automatically rejected or if there's no action is it approved by implication because that's the company's position as I read your report

0:56:59 is that it's approved by implication my question is do you agree with that position um Um, well, I mean, I would prefer to see, like, you're asking whether the regulations require that if they're requesting a waiver, uh, should there be an order officially approving it? And my answer would be yes, but they sort of qualified their question and, you know, they sort of

qualified their request for a waiver in their request they said if we need a waiver we're asking for a waiver type of deal and the FCC is you know sometimes notoriously slow on these things I mean in my opinion there should be an order but I don't know why the funding would have been dispersed absent the order so I guess I truly don't know the answer uh can you find out the answer to that question for me please because i would like to know whether or not these waivers could be approved by implication or because of the commission's failure to act um because if it can then they're acted in violation of the law that's what i can tell so if i may mr chair um the process by which the fcc has conducted this extended funding has not been a formal process at the time of the original order they asked us to submit a list of projects that would qualify that we believe would qualify uh as resiliency as a resiliency measure because it was not defined you know they did not define resiliency measures and so we did submit a list and in fact the list exceeded the funding our budget estimates exceeded the funding that we were to receive so we gave that to the fcc as an example of the types of projects that we would pursue with the funding that they authorized and the FCC approved that broad list of programs and so then we just proceeded to execute on those but again given the nature of the business the

0:59:38 changing circumstances in the market um our priorities shifted in terms of what we wanted to spend the resiliency funds on and then as mr neely pointed out we did submit in our report to the fcc an explanation as to why we put funds towards the 2-2 engineering building rather than some of the other projects explaining how it was consistent with the notion of resiliency we did not think a formal waiver was required because again this has not been a really formal process but as Mr. Neely pointed out we did say if to the FCC if you the FCC believes the waiver is required we're requesting it there was no response from the FCC so they did not indicate that a waiver was required they did continue the funding so it does appear to have been accepted and again because of the informal nature of all of this we believe that to be acceptable I mean, I understand all of that. My question of my query was, are you aware or can you cite to any regulation that authorized you to reach that conclusion, i.e. that you have an approval of your waiver by implication or because the commission failed to act or they didn't act in a timely fashion. I was just trying to figure out what the authority was on the basis for the company's conclusion that the waiver was approved, or at least they could act as if it were approved.

1:01:20 It's not even clear that a waiver was required because, as I said, there was a very ill-defined program. Let's assume a waiver was required. We're operating on that premise. If that was required, then it's a moot point. But assuming one is required and you don't have one, then the question is, how do you justify your actions? That's the only inquiry.

1:01:47 Well, I mean, the bottom line is if a waiver is required and not issued, the funds, as Mr. Neely said, are subject to refund. so if at the end of all this the fcc determines that we spent the money in the wrong fashion they would ask for the money back i understand so i'm asking really to do the research and determine for us whether or not there is such a approval by implication or some sort of option i i don't believe he'll find anything on the record for that but okay Chair, I don't know that it's relevant to our certification.

1:02:30 It's a good question, but ultimately, we're just to check one of the boxes checked here. I'm not sure we're putting in place to police the FCC's process. All right, that was the Chair's request. Any other comments or questions? No questions. Is there a motion? i i move that the vitelco universal service fund certification be granted so moved second roll call commissioner clement mcgrass yes commissioner laura nicholas nichols sams yes commissioner raymond williams commissioner raymond williams commissioner david hughes yes commissioner pedro williams yes mr chair we have four voting here to approve the vitalco usf certifications well the matter is approved moving on to docket number six six six six nine yes yes thank you thank you this is uh for broadband vi and broadband vi they receive connect usvi fund stage two for fixed locations uh the intent of their support is to require bbvi to build out and provide one gigabit download 500 megabit upload broadband and voice service to 46,039 locations by December 31,

1:04:31 2027. By December 31, 2024, BBVI was required to complete 40% of the build out which equates to 18,416 locations. BBVI received a six-month waiver of this requirement until June 30th, 2025, which they failed. Their 60% milestone by December 31, 2025 remains the same, you know, remaining at 60%. And the latest information that I had was that they were at about 12,000 locations. BBVI received 8.45 million in 2024 and they will also receive the same amount in 2025 and 2026. However, due to their milestone failure and BBVI being in a tier 3 compliance gap they are having a 25 support withholding right now so they are not currently receiving the full 8.45 million now depending on whether they come back into full compliance or they reach a better compliance tier they may have some or all of that support restored it'll just depend on whether there's improvement and bbvi readily admits it's not meeting its milestones they explain through discovery that realistically they will probably not meet the 60 milestone which is due at the end of the year but their anticipation is that they're going to remain at their current pace of build out and stay in that tier 3 gap which again a tier 3 is anywhere between

1:06:25 25% and 50% locations fewer than what you were supposed to be hitting. Again, most of the data was confidential. I apologize for that. So I'll try and stay high level. They do, BBVI does use a separate bank account for all the money.

They track the funds separately to ensure that these are program specific costs. And I've seen no indication that they're misused. However, since they are not meeting the milestones, a lot of my questions were regarding causes for delays and their attempts to try and resolve those issues that they had. And according to BBVI, their two major issues are pole attachments that they need from the Virgin Islands Water and Power Authority, otherwise known as WAPA, which is a government entity that provides water and electricity in usvi and the number two issue is road excavation permits that they need from department of public works or the dp dpw and as you might recall with wapa there has been an ongoing back and forth regarding delays culminating in bbvi actually filing a petition earlier this year on january 19th asking for help getting wapa to negotiate a pole attachment agreement and abide by their pole attachment obligations but after the filing the parties were able to come together there is a final pole attachment agreement and the first project under that agreement commenced on july 21 i believe that was the king's quarter uh and i think we just saw a public notice on that too so there is progress being made on the wapa pole attachment front

1:08:22 they do have that final agreement and with respect to dpw and the road excavation there have been some ongoing disputes over bbpi's work quality and their restoration efforts which culminated into a stop work order being issued by dpw in november of 2024 So they ordered them to stop all work. BBVI then met with DPW. The stop work order was partially lifted in January, but it was only lifted for pre-existing projects that were submitted. So they are still working on coming to an agreement on a full lift, and maybe the company reps could tell us where that is. But again, it's only been partially lifted at this time, so they're still working through that. So we know that BBVI is not meeting the milestones. We know there's delays. We know they're working on getting their permitting and attachment issues more streamlined. so the ultimate question still remains whether the VIPSC should certify them that they're using the support as intended even though they're missing the milestones so when I posed this question to BVVI in discovery they stated yes they're failing the milestones but they're they are probably tracking all their expenditures they're only spending funds on equipment machinery materials, dark fiber, inspections, all those things that are necessary for the build-outs, and they argue that they're using their best efforts to get permitting and attachment issues resolved. And from everything I reviewed, I do tend to agree with them with what they're saying, which is that they're making a good faith attempt to progress, even though they are behind schedule.

1:10:23 um i would also note that the fcc has penalty tiers built into the program which assumes that some companies are not going to be 100 compliant at all times and they will have their funding withheld and they'll have additional reporting requirements etc but it wouldn't automatically disqualify you from the program um in this case bbvi is making appropriate filings with the fcc they're responding to all the discovery I had they are trying to work out their delays and it appears that they're making good faith efforts to get back on track so again I am I am ultimately recommending approval for them to be certified happy to take questions on them and I I didn't see who was on I've usually been corresponding with Adam Marinelli but if they have a rep on And they hopefully they can answer some to you want to say anything with me is john shantiago he's the representative of liberty happy to answer.

1:11:46 do you solemnly swear that the testimony and evidence that you're about to give is the truth the whole truth and not the truth is so helpful as well thank you morning commissioners my name is john santiago i'm manager for regulatory affairs for broadband bi and for liberty mobile as well saturday is there anything you'd like to add or say to us based on what mr neely just testified to uh mr neely's uh testimony is is broadly broadly correct um we answered all of his discovery requests um with detail um we showed the different delays that we've been facing and which i mean i've met with you before on this issue we've been transparent about the challenges that we've been facing uh in this build up it's not an easy build up right it's a it's a build up which is uh predicated apparently 85 percent um fiber a underground buildup that uh that implies a lot of complexities right in the build out and the trenching and the digging and that has led to challenges right um particularly with the department of public works the aerial portion uh due to the to the pole attachments that it requires with with wapa also um also implied some challenges because of the uh of the slow pace of the of the negotiations

1:13:35 despite our urgency to build due to these milestones that that we are facing right thanks to the to the commission's intervention in uh i don't know if it was in january or february that we met and and the commissioners pressed wapa on coming to a final agreement uh with broadband bi we were able to sign a permanent pull attachment agreement in march that took some time to ramp up uh so the actual the first project under that agreement uh was was finished in in july but since then we've seen a significant improvement in our in our build-up uh august was the best month we'd had uh in terms of build-out in terms of homes passed until september september has been has been the best month and it's almost with some releases that we're going to do today of homes passed it's going to duplicate almost obvious numbers right uh we have uh sufficient permits in place also for october to keep up the tempo for for building which right now what we're projecting is a higher tempo of homes past that we actually need to to to reach the deadline by december 31st 2027 right that's obviously taking into account the possibility that there might be additional challenges right along the way but

um but but in terms of uh in terms of the tiers of non-compliance like mr neely said right this is something that is baked into the rules the fcc expects that certain companies will face challenges in their build-out as we have we currently this money is being withheld from us until we come into compliance uh this right now it's since we're in tier three non-compliance that implies a 25 reduction that is not a clawback of

1:15:25 the funds right so it is money that that liberty will recover when it comes into compliance we expect to come into tier one compliance which would imply a release of those funds by november of this year with respect to the 40 milestone and from some sometime in the first quarter of next year with respect to the 60 percent milestone and that's money that will be invested in the connect usbi program that will be invested in the virgin islands in broadband deployment and high-speed internet for virgin islanders so we are optimistic about about our build-out we understand yes there's been challenges but again although as as mr neely stated and certified this the the money that we have received we have we have put into we have put into the intended uses of the support right and that is what the commission is is meant to certify today with respect to the delays right if we face delays this is a reverse option right so we said we we proposed an amount to to receive for for this buildup right if there are delays those delays imply additional costs that means the the company has to foot the additional bill right it doesn't mean that that the funds go somewhere else or diverted delays signify additional costs and it's costs that liberty is bearing right so if you have any questions i'm happy to take them thank you commissioner here yes um on that point mr santiago how are your expenditures running relative to i don't know the the the implementation limitations or the implementation reductions have you seen a are your expenses tracking your original budget or are they tracking the implementation our uh actual figures are are confidential commissioner but but are are due due to the

1:17:26 the delays and due to the reduction yes i mean the project is running over the original budget so right how much of this project was funded by the the overall grant amount which i think was what 140 million well the the original amount that the fcc had had allocated uh was i think that amount that you mentioned since it was a reverse auction it went uh it didn't actually a lot that amount right so so what the money that the fcc ended up awarding um because uh our proposal um was predicated on that amount was 84 million over 10 years right um so so that is that is that is that is the amount that we are set to receive from 2021 to 2031 um against the total project cost estimate of at that time of how much i i don't have those figures uh i can i can get back to you and submit them under under confidential cover because um they're confidential figures yeah i remember them being disclosed previously i'm not sure how confidential they could be but it would be interesting to know our interest of course is that you have financial viability to complete the project if we're going to continue to to show the same forbearance that the fcc has built into their system so i'm just interested to know that broadband vi has the financial wherewithal without getting into your balance sheet to complete this project still um on the pole attachments question do you consider that uh generally resolved yes generally yes okay so in the implementation you haven't haven't seen wapa back away from the commitments of the agreement in any way no no does it require anything from them particularly i mean is there their crew crew requirements or is it essentially a technical specification you just have to continue to meet well we do coordinate with them um to um sometimes to to

1:19:38 to be on site and they have been very responsive uh with us um when when when requiring some of their staff to be to be on site for uh boat attachment again like the agreement was signed in march it took a while to ramp up until we could do the uh the first project in july because uh they hadn't at that point uh procured i believe a pole loading analysis firm a third party firm to perform that analysis so that took a while um but that's that's that's resolved that's passed us uh so so right now we are we are working smoothly with lava okay well i'm just trying to anticipate any future additional delays to that aspect of the project so if you if you see that coming at you please make the commission aware thank you thank you chair thank you mr hughes yes um good morning good morning oh good afternoon well good morning so yeah um how many how many um subscribers are actually on your five minute that one i don't have the latest numbers. It is relatively low compared to our build-up numbers. There has been, I would say, a slow catch-up with regards to the subscriber numbers.

1:21:20 the reason i asked because your marketing has has been extremely high for something that is extremely low yes that's it that's it that's it you're advertising fiber and you don't have it well when we we we seek to advertise principally in in in the areas in which in which there is availability, right? And towards the end of the program, which will be in two years, there will be five or 100% of the locations at the required speeds in the Virgin Islands.

1:21:58 The speed that you're going, you think you're going to make that two-year window? Yes. Let me ask you, are you aware that the legislature is considering legislation regarding um your trenching not you not you in particular but trenching in general and returning the streets to their previous or their prior condition we are aware yes okay because that's that's going to affect your cost certainly certainly um yes these are these are these are things these are things that we're taking into into consideration um things that you know we're also in dialogue with DPW about trying, again, to coordinate, you

know, make our best efforts to coordinate so no one wants ripped up streets, right? I think our desire is to coordinate as best we can with DPW so that work is done efficaciously. And, you know, the delays we've had and in the in the report that that uh that you may have read um uh dpw did um detail right some some issues with uh with the restoration etc so it's not because we we everything had been discussed previously with them uh in terms of the material being used for this etc uh but um but just the material that had been pre-approved by them used by us didn't hold up in the end we needed to have additional technical uh advisement from the company that prepared the material to come in it's been it's been a process right but but but we are we are definitely in close communication with dpw to uh to ensure that uh that that restoration of the streets once the micro trenching is done uh it's done in the best manner possible so are you still using 100 micro trenching uh i i understand that that that uh that no it's not 100 micro trenching uh it's uh it's um so in some air in some areas we've we've switched uh different uh to different methods depending also on what is DPW's preference for sometimes working not on the street but on the side of the street and sometimes a bigger trench than a micro trench is more appropriate. So we've

1:24:34 tried to adapt to the requirements of the DPW as it comes. Mr. Neely, you indicated that those areas of you inquired that we asserted some confidentiality. When that is done, did you agree with all the areas that they said were confidential?

1:25:09 well they don't really provide me justification and i you know i'm not as familiar with the usvi's statutes to know how that how that works i usually just kind of accept it and mark it i mean generally confidential commercial information trade secrets those type of things are protected under under laws um so i mean i didn't challenge the justification so when they said that someone's confidential you basically just accepted a face value is that what i'm hearing yes i do do you check with our staff our local staff to get any input as to whether something should be deemed confidential or not i think i've discussed it with boyd from time to time but i haven't actively moved to to disclose anything so i'm just not as familiar with the with your rules on what um legally is allowed to be labeled or the procedure for disclosure I mean the gist of my question and legal counsel for the company may want to think about this is because you agree that something may be confidential or you don't object to it does that bind the commission members in terms of what questions we may pose or what information we may disclose in in a public setting that's the gist of my concern because i don't know that i want anybody else to bind

1:26:58 the permission in terms of what we can or cannot delve into. I would just say I'm not making any assertion that I agree that it is confidential. I would just say that because they labeled it as such and I'm not challenging it in any way, hopefully that is clear but if you have procedures to disclose it you know i'll do as directed mr chair if i may speak hold on hold on i think council um if i may just briefly for the commission's sake when it comes to public filings that my office files with the commission if there is something to be deemed confidential we file both a redacted version and a um unredacted version for the commission's consumption with a motion included requesting that specific confidentiality with respect to the discovery request advantage point a third party request from us we have obviously the right as a public entity as a private entity dealing with another third party to to not allow him to disclose that information if the commission itself has particular data points that they would like from from my client and make that request in writing we're happy to provide that and if it is deemed confidential by the company we'll do the same procedure that we had in previous filings with the commission which is to file a version for the commissioner's eyes only and then a version for the public consumption okay so let's assume you file something with the commission saying that they should be confidential are you expecting the commission to either agree or disagree with that representation generally in my practice and

1:28:45 again this might be a question for attorney sprain but in my practice if we make the request and the motion is granted then the commission would be would be bound by that granting of the motion if at any time our request of confidential protection is denied i think that there is a procedure under the regulations for us to seek judicial review of that attempt at public disclosure prior to its disclosure but again i i think i'd defer to attorney sprain on that particular issue yes uh thank you um we do not make as a staff a determination on the propriety of their confidentiality claims as a general rule we are aware and that there are both confidentiality protections under virgin islands law for um trade secrets and information of a financial nature where there is competition, which is certainly the case in telecom, and that there are substantial confidentiality precedents at the FCC. We do not, however, prohibit the commission from seeking to make public information.

1:29:53 If the commission wishes to make public information that has been filed under a claim of confidentiality, the filing party has an opportunity to contest that before the information is made public. never had that process actually reach that level so we have not got a current sort of set of policies we would have to invent that process to an extent if we will but we would have to afford the company the opportunity to do so however the degree to which confidentiality is ultimately granted or denied is ultimately at the discretion of the commission all right thank you um then back to mr neely do we have a copy uh was the copy of the poll attachment agreement submitted to you in discovery i did yeah would you like

me to send that to you yes please if it hasn't been all right thank you mr hughes asked one of my questions so okay um i think this is from mr Neely. You said that the company is in a tier three non-compliance. You said it was between 20 and 50 percent of delays. Is that correct? Yeah, it's just based on the total locations they're supposed to be at and what they're actually at. So the tier three is 25 to 50 percent lower. It's in that range of their failure so they're supposed to have 18 000 when you talk about 20 to 25 to 50 where where are you guys in that range uh currently yes um so we uh with some releases that we have today we are at um 13 000 and change um 40 is 18 18 000 uh for the 40 milestone right

1:32:03 that that we were meant to meet um it's about 18 000 um uh i i don't i wish i could have myself on here so i could do the conversation figure out like where where we are but because that's like a really big range yeah so um so in uh thank you adam so so yeah so that's about yeah it's about 72 73 73 percent um we 40 of the 40 of the of the of the 40 milestone correct um so again our our projection is that we will reach um i want to know where you are now now your projection well where we are now is is is what i just said it's about 72 73 of the 40 milestone right um and that's that's about 13 000 and change uh homes passed right um so again our projection is that by by end of november we will reach about um 15 000 and change which is uh which would be a tier one uh non-compliance which is just between five or and 15 percent gap right okay maybe i need to rephrase my question excuse me i thought you testified that by november of 2025 you would have reached a 40 percent milestone was not your earlier statement no no we'll reach the tier one gap of the 40 percent milestone uh which but i was i was saying that in the con stating that in the context of uh uh mr neely was referring to the withholding of funds um the the non-compliance gaps um specify that in tier two tier two tier two tier three tier four you get funds withheld

1:34:07 right and tier one uh whatever funds were withheld are released right uh back so so that is uh that is that is why i was stating that that that projection in that particular context okay i guess i was trying to figure out like not where you expect to be but where you actually are right now and that was my question like um the non-compliance uh is has a range of 25 to 50 percent so so mr neely were you getting ready to say something well i think like it would be a 28 compliance yeah if they're at 72 success then they're 28 failure rate so in between that 25 and 50 they'd be at 28 okay thank you that's what you mean okay so we need to get what to 40 percent in order for you all to start receiving any funds right no no we're receiving funds currently right we're receiving funds but so the the non uh the non-compliance tiers they don't mean they don't imply that you stop receiving funds altogether you get a support reduction right um so so you are actually because i thought uh somebody said you all were not receiving funds at this time no no no we're receiving funds um yes broadband bi you know it's 84 million over 10 years so it's uh 8.4 million a year right divide that over 12 months um and you get i think it's 700 something thousand a month right and um and so so tier three right now where we are you get a 25 withholding of those funds that is for rob mbi 175 176 000 a month right when you uh as you progress through the tiers right as we get closer

1:36:08 to the to the milestone the the reduction or the withholding becomes less right until eventually it becomes zero and the money that was withheld is returned is is unfrozen right sort of yeah released um i have two more questions um with the expansion that you guys are doing what percentage of funds are actually um the grant money funds and what percentage are you guys providing I don't have right now the exact figures on that, but again, that's something that we can submit under confidential.

1:36:52 Okay. And is your funding based on the national bead program that was recently restructured or is that another fund from the FCC? It's another fund from the FCC. So the BEAD program, going back, the ConnectUSBI fund was established in the aftermath of Hurricane Zero Memorial, right? And that's where the money is coming from. The money through which the ConnectUSBI program is funded comes from the Universal Service Fund, and that's funded by USF fees, which are levied on providers, right?

1:37:32 And that is for this particular program, so there are ConnectUSBI funds for mobile entities, as we were just hearing with VAIA and with Liberty Mobile USB, then for fixed entities. For the fixed program, the FCC made available through the reverse auction up to the amount I think the Commissioner Hughes mentioned, which is about \$140 million, but that's a reverse auction. That's not actually the money that they allotted in the end, the money that they allotted in end or allocated was the 84 million to the winning bidder which was broadband bi right um the the bead program which i uh believe comes from the infrastructure act the bipartisan infrastructure act that i think allocated about um my memory maybe is failing me right now but i think it was like 22 27 it was 27 million dollars i think it was yeah 27 million dollars to the virgin islands uh so so so much less um that that money is uh is currently um so so in other in other jurisdictions um say for puerto rico and the usbi which have connect usbi and oniendo uh the money uh is directed at least in part towards deployment right towards reaching reaching homes in in puerto rico and the usbi since there's already much more federal funding than than what was allotted through bead um that that the bead money cannot be used for that it can be used for other purposes right the trump administration uh since it had a a different view sort of of the beat program since

it has come into office has frozen the word for the time being the use of the beat funds right but that are you guys in line to get any of that the funding not not not not

1:39:25 currently um and it wouldn't it wouldn't go towards the efforts that we're doing in terms of build up because they cannot uh be sort of uh mixed in together right okay um the the bead funding can be used uh for other like digital equity digital education uh initiatives that i think the us virgin islands broadband office has already uh laid out but they haven't since the program has been frozen they haven't really been able to to move on that right before it was frozen were you all in line to receive any of those funds no no i i think it's more um the way it was geared more for like educational institutions instead of like digital literacy it's like actually more than that though okay but yeah that is a big part yeah but but but but no the answer the answer uh is is no we weren't yeah seeking to all right i was just concerned about your funding source and like what part of money it was coming from no no right now no no thank you and right now it's not really being threatened by that by the actions of the administration with respect to being yeah thank you so much thank you thank you anything else yeah what's your total number of households that you are expected to reach when you reach at 100 percent uh well it's uh especially by locations broadband serviceable locations so that includes households and businesses right it's a the estimate uh is is 48 000 and change um in in in the whole of the usbi right st john st thomas st croix so 13 000 of your 18 000 you're at 72 percent of that mark but you're only 27 percent of 100 So now it was you're only at 13,000 homes that you said you're about you or services.

1:41:12 Yes. You're actually at 27% of the hundred percent. 27% of the, of the 48, of the 48,000. Um, yeah. It's like estimate, but it's more or less, more or less. Yes. Okay. So you've got a long way to go. Yes, yes, certainly. But we're making good progress. Again, this quarter, which is finishing today, actually we have a report that we'll be submitting to the SEC as part of our quarterly reports. We have reports due to you also. So as I was saying in the beginning, we've been transparent about our challenges and our progress. And we have reports that we follow quarterly to the psc on new communities reached uh that are available for you to review uh and and under the non-compliance status we have reports that are due to the fcc also on on the number of locations reached um and uh and this last quarter has been has been a best quarter so far so our expectation and our hope is that that will continue on to the future all right thank you your motion I just wanted to make one comment on the BEAD program.

1:43:01 um the bead program is not one that the public services commission has had any any particular role in in the virgin islands the governor's office has assigned that to the uh office of management and budget they have a broadband office within that area and they have been handling all of the applications for and any disbursements from that that program without any actual communication with us regarding how that program is operated but that has nothing to do directly with with this motion or or issue because the bead program has been mentioned several times i wanted to provide that information all right so we have a motion is there a second i second the motion okay uh we'll call commissioner clement mcgrass yes commissioner laura nicholas dams yes commissioner raymond williams commissioner raymond williams commissioner david hughes yes commissioner pedro williams yes mr chair we have four bulletinier to approve the recertification of broadband via thank you and i'll move to docket 670 liberty mobile so last on the docket today we have liberty mobile and liberty mobile receives connect usbi transitional support for mobile service which is the same one that via wireless receives and again the stated purpose is to improve redundancy and resiliency of facilities for 4g lte or better technologies to ensure continuity of service by preventing or withstanding damage from disasters including the maintenance of backup power systems for the networks they also have the obligation to maintain their service area coverage as it existed prior to the hurricanes Irma and Maria in 2017. Liberty Mobile received

1:44:57 \$443,682 in 2024. They should receive \$332,827 in 2025. And they should also receive that same amount in 2026. And again, like VIA, they are going to continue to receive that 25% transitional support level until the FCC rules on how they're going to deal with the 5G fund for rural America. Again, most of the data regarding what the money was spent on was labeled as confidential, but I can just say that at a high level they spent more than they received on their various hardening and resiliency measures the full details are contained in my confidential report and they were also filed in the fcc's 18143 docket which again i was provided a version the confidential version of that filing they were able to provide me with updated information for the remainder of 2025 but they didn't have at the time a plan for 2026 available and similar to via you are able to go into the 18-143 docket and see that liberty certified under oath that it's meeting its coverage requirements and through discovery they also gave me their maps and the coverage information to show they're still complying with that requirement it and based on all the evidence for liberty mobile i'm recommending certification for them as well and happy to take questions dave do you want to step in because the chair just stepped out

1:46:55 oh okay i'm sorry um well i'll start with uh commissioner mcgloss um i have no questions well any questions i don't have any questions i also have no questions and the chair has returned so is there a motion i move that the application of liberty mobile for designation as an etc in the usbi or stage one of the fcc's connect usbi fund be approved okay we're moved by

commissioner hughes seconded by commissioner mcgras commissioner clement mcgras yes commissioner laura nichols sounds yes commissioner raymond williams yes commissioner david hughes yes commissioner pedro williams yes mr chair we have four voting ye to re-certify the liberty ect designation uh thank you thank you for your report yes thank you now move to item number six energy matters on docket mr chair uh boyd sprain here if i may speak go ahead uh we had requested on all of the matters under this docket uh reports from the uh parties uh in advance of this meeting i I, while I'm away from the office, I have not seen any reports received on any of these four items.

1:49:09 I do not presently see Mr. Hart, Phil Hart, who's regularly attends our meetings as, oh, I'm sorry, he's right there on the screen. Mr. Hart is apparently ready to speak on this particular matter. And I see that Mr. Bourne is also, Attorney Bourne is president. I presume that's for the next agenda item. so we can just we can dispense with advanced power no mr hart is present if you want to hear from him all right do we have anybody present for items c and d is anybody from wapaw all right so let's go to back at 630 mr hart chair this is not uh this is not okay i'm sorry good day commissioners uh this is joel hart with advanced power hold on i'm sorry mr hart commissioner hughes you were saying something no i i misspoke i i thought this was heading in a different uh back to the uh back to the waste management entity on my my mistake sorry no problem all right we're back at 620 advanced power application for qm resignation

1:50:55 mr hart you recognize yes do you solemnly swear do you solemnly affirm that the testimony and evidence you are about to give is the truth the whole truth and nothing but the truth so help you guys thank you for the opportunity to give you the update uh i would uh like to share with boyd i did see a request for a written report possibly late yesterday afternoon and did not have a chance to respond to that but i'll be happy to uh but uh anyway we we have uh we've been making good progress on the uh on the on the funding side for the wind project uh it's been a i think it's been a hearing or two since i've actually testified uh i know that the uh the environment i might just give you a quick update on or an overview about the current environment uh regarding some of the funding efforts we have a you've all heard about the big beautiful bill from the current administration that has impacted the timetables for taking advantage of the tax attributes which is something that we're focused on to try to bring those to bear so that we can help reduce the cost of the project and lower the rates for the ratepayers going forward and so they they have given us more definition and clear and understanding and guidance since that bill was signed into law on july the 4th there was a treasury guidance uh that was provided uh earlier this month that has to do with safe harboring projects and so that has that's significant in that it's driving us from a milestone standpoint and so safe harbor requirements uh basically require that we have a continual construction by july 4th 2026 to be able to take advantage of the tax attributes and it allows a window of four years to build a project of course we're not looking to take four years but we do want to preserve those tax attributes between now and july 4th there is a secondary window that if you don't meet those requirements then you have till july excuse me December 31st uh 2027 to have the projects online so there's two windows and two opportunities for us to preserve those those tax attributes and that's that's what we're focusing on I do also want to share with you we have been engaged or had been engaged with the U.S. Department of Energy's Title 17 program but after the current administration has come into office they have shifted their focus from renewables to fossil fuel generation, nuclear power, coal, and basically the DOE Title 17 program is not really a viable option for funding on the project or any renewable energy project at this time. There is a positive result from that, frankly, is that we will not have the

1:54:11 administrative burden that we would see with any federal program as i've listened this morning uh to y'all hear testimony about federal funding uh that releases us from not having those uh particular uh hurdles to have to deal with uh things like uh anytime you get federal funding for a project of course you have to have nipa stuff like of this type you have to have nipa studies and other things that is no longer a burden on us moving forward and i also want to share even though we've been talking with the doe for a period of time about funding for the program we have always been working in parallel with our private funding partners we have already engaged and signed letters of intent with uh investors and other underwriters investment banks that we're working with we're now in advanced stages of discussion we're going through due diligence we're working through with national tax advisory firms in regards to the funding package the structure they're validating the models and all the other steps that are involved there's always challenges involved in project funding this is no different but we're making good progress and uh hope to have a formal commitments here in the coming so uh i've got more information i can go into but that's uh the high level uh portion of it we're we're excited and making good progress so i'd be happy to take any questions or uh you know happy to hear any of your comments all right thank you sir commissioner hughes no questions sir there's no questions all right thank you mr hart and continue to pursue this and we appreciate your efforts

1:56:06 thank you for thank you for allowing me to participate any questions or comments We'll now move to Docket 685 via Electron, who speaks to that? Anybody from via Electron?

- 1:56:39 City is just joining as a spec team. If I may, Chair, we received a communication. Hold on. Hold on. Hold on. Is Mr. Lounger on? No? Go ahead, attorney. We received an email earlier this week from Mr. Mr. Laranger regarding this project. He had been available at our prior scheduled meeting date, but he is in New York on some closings today. He indicated he would submit a written report. I have not seen it, but that he would not personally be available today.
- 1:57:26 All right, so we just want to table that matter? Appears so. There we go. All right, we move on to item C, Docket 709-Walper, Investigation of Fuel Acquisition Process. Please, might answer this one.
- 1:58:05 Do you solemnly affirm that the testimony and evidence you are about to give is the truth, the whole truth, and nothing but the truth, so how do you that? Your name's for the record, please. I'm Lorraine Kelly, Chief Financial Officer. Nicole Abena, Antioch Administration Manager. I'm sorry, what's your name? Nicole Abena, Antioch Administration Manager for the authority. Ms. Kelly, before you proceed, was WAPA requested to, are you aware of a request to WAPA to present a written report prior to today's hearing? Ms. Kelly, financial officer, we received an email yesterday asking were there any data or reports or information that we needed to send. send and we did send um a copy of the liac filings to uh executive director sartori um attorney boyd but i was not aware of anything else that needed to be submitted that was sent yesterday that was sent yesterday we had sent it previously but um there had presumably been some issues with it being received on your end so we collapsed the file and which hopefully should have been small enough such that it would go over the email.
- 1:59:23 Attorney Spade, did we not send a request to Walker earlier in the month for them to submit a written report? Yes, we did. I'm sorry. Making sure my microphone is on. Yes, we did. I was just looking for a copy of that transmittal. It was a letter sent by Ms. Sandra Satori. It was forwarded to or sent by my legal assistant, Ms. Reynolds, and I'm looking for that date as we speak. Yes, we did send a request for reports on each of these matters. Was it sent to Atwampa, do you know? I know it sent to Director night beyond that i'm just looking to see if i could find that information um i do apologize for that uh mr williams um we have copies here maybe we give you a a copy and today we'll make sure we have some extras um we'll make sure to give you the electronic copy i do and share the information that the request was sent on september 10th to uh mr knight so apologies commissioner williams would you like us to proceed or would you like to take a couple minutes and i thought you indicated at least to me that in your monthly or regular meeting with
- 2:01:17 whopper you did remind them about the request to submit a written report at that meeting yes It was not copied. The email was sent to Mr. Knight, to Ms. Williams-Octolin at ODR and to Ms. Charles at WAPA. My question was, was Ms. Kelly present at your monthly meeting?
- 2:01:52 Yes. The answer to that question was yes. I'm sorry, I didn't mean to confuse the issue. She's indicating that she was not, she was on vacation. Is that what you're saying? the conference i was at a conference i was at a conference and i took a one day vacation i don't remember which day the event was um for the meeting but i was at a conference in miami for parent that week i'm more than happy perhaps if we can also make sure to include not only myself at tony sinclair um just going forward yes that would cost september 10 percent of all parties all right um good morning so thank you very much commissioner williams i'd like to to miss albany um to present the um liquid petroleum gas lpg rfp timeline Good morning again. I'm Nicola Bain, contract administration manager. Okay, I'm Nicola Bain, contract administration manager for authority, and I will just go through the timeline thus far, what's happening, as well as what's going to be proceeding after for the RFP for liquid, liquefied petroleum gas PR03-26.
- 2:03:19 Okay, RFP went live on September 8th, 2025, advertised on various social media platforms, various websites, newsletters, and our local newspaper. Packages were sent out directly to approximately 36 vendors locally and nationally. pre-bid meeting took place on friday september 19 2025 via teams at 10 a.m am am asd approximately 10 vendors participated along with the viwapa's project team and contracts team site visit took place on tuesday september 23rd 2025 at 9 a.m at our randolph harley power plant facility on st thomas approximately six vendors participated along with our authority um project team i visit took place on wednesday september 24 2025 at 9 a.m at our richmond power plant on st croix approximately four vendors participated along with our project team coming events last day of submitting questions to this proposal has a deadline date of friday October 3, 2025 at 3 p.m. Additional upcoming event responses to questions submitted in accordance with the RFP shall be transmitted to offerors no later than Wednesday, October 8 at 4 p.m. Finally, a complete copy of the proposal must be submitted electronically in PDF format on or before friday october 24th 2025 at 11 59 tm asd and lorraine chief financial officer just to clarify and confirm every single timeline that miss sylvain has just referenced our asd and virgin island time yes that's the extent of your testimony that is the extent of our testimony um commissioner
- 2:05:27 williams we understood that you wanted a timeline and um if there's any information that we have not included here that you might want or your team might want um please let us know and we can provide that to you all right thank you commissioner hughes any questions yes thank you chair um i it was a little unclear when we were discussing the the lack

of a report um did the psc was the psc directly communicated uh a copy of the rfp when it was uh issued were we on the list of distribution no you were not okay well just for future reference we should be in your your all your acquisition um processes you you can just short circuit our request we'd like to see them all when they are issued um have we received one since anyway on staff do we have this rfp no i have never submitted it was not aware okay i'd like to receive it as soon as possible please electronic forms fine um can you characterize the changes miss aubain i've read the prior rfp in detail all comments questions answers that were submitted by the various vendors from the various visits can you just summarize for me in a general sense how this rfp has changed from the prior um i don't feel there's like major changes i do know that we did broaden um our advertisement platform we sent it out to a lot more different media um than we previously did that's like the

2:07:15 major um change when it comes to this procurement as in for the rfp itself um it was just a little bit more fine tweeted but it's pretty much relative um information that was the same as the first one so a number of the vendors that participated in the last rfp took great exception to one particular item within that document that required quote unquote local storage um of of lpg um they thought it indicated a substantial misunderstanding by wapa on how fuel moves um and and the necessity for local storage as opposed to just a responsiveness for instance in the case of like a hurricane or something um is that local storage provision still in this rfp the current rfp yes so you didn't listen to the vendors that said that that was completely unnecessary and and that was exclusionary to all but one party you you kept that that local storage requirement in the document commissioner hughes um lorraine kelly cfo um if we could possibly swear in uh tony sinclair and she has stepped to the podium i don't know if you can see her online but um i would like to offer her to assist us with the response to your question i'd like to i'd like to hear from the contract administrator um what what why the utility didn't take that feedback from the various respondents to the original rfp when it was deemed by those parties to be exclusionary to all but one party that party being empire cast i would refer um the response for legal counsel for authority

2:09:11 okay i'm not sure what she can add that you can't but um yeah sure let's let's have miss attorney sinclair please uh good morning do you want me to do you solemnly solemnly affirm that the testimony and evidence you are about to give is the truth the whole truth and nothing but the truth so i did um thank you for your question commissioner hughes um and sorry deon sinclair general counsel for the authority with respect to the uh subject matter expertise required for for some of the contents of the rfp that would be inputted by uh that department that has particular knowledge and needs with respect to the procurement in terms of the local storage it is one of several factors that we listed that would be given consideration it was by no means not in the present um procurement or in the prior rfp a mandatory component it is something obviously with the end users who are working with this on a day-to-day basis during scheduling and understanding the wants and needs for generation here in the virgin islands it is something that would benefit the community and thus it was mentioned inside the procurement so it's frankly a little bit unusual that the psc gets direct inquiry about a procurement procedure by the authority certainly it's unusual that the uh your board members are also solicited um because the entities that are responding don't feel like they're getting the response of the utility directly we got we got a great deal of feedback regarding

2:11:14 i think yeah hold on i think yeah if i if i can thank you that's great but i haven't actually i haven't actually asked a question yet so this is actually an integral component of the present rfp um there were many concerns about the communications um that transpired during the the last um procurement um we did a deep dive and we in order to safeguard i think um the integrity of the present process um we uh copied much of what uh the federal component asked for even though the language was previously in the prior rfp we tightened it up in this rfp to make it clear that any communications any um requests for influence any solicitations that are outside the contract manager and the contract department will result in disqualification how convenient for you that you it's not convenient it is actually standard procurement process yeah so this is exactly why we have a docket open on this because um because of the the concerns that were expressed to your regulator and to your board frankly um that weren't addressed by the process so just to take a step back to the local requirement um the objection that was made is is that this is an completely unnecessary and exclusionary requirement because wapa did not understand how how bulk fuel moves uh in the caribbean um to require a local storage

2:13:04 component without actually having any capability either internally or or externally to move that fuel it makes it an insignificant point and also an unnecessary point because hurricanes don't stop propane from moving throughout the caribbean they just occasionally make the service terminals unavailable so you know we have a hurricane here in the virgin islands it's it's tough it might make the the ports unavailable but it doesn't mean that propane stops moving in in the caribbean they just they re-route ships they they stand it at anchor they wait for the terminals to be available so they can fulfill their contracts and this was the point made by a number of the more established bulk carriers in the caribbean including the one that was currently servicing the wapa account and has for the last three and a half years they felt it was used as an exclusionary tactic to essentially and in fact i think it was in the in the words of director knight that excluded everyone other than empire from or at least created a preference situation to empire vis-a-vis all other candidates um and

it was deemed to be i think they made the argument so it was an unnecessary exclusion because if you understand how bulk fuel moves in the in the caribbean you would never make such a requirement in any case um it's one of the reasons we have this as an open docket because those questions still exist and apparently they exist in the current rfp um so i'm just making the point that you you weren't responsive to the industry um you mentioned miss sabane that you uh made direct solicitations to i want to say 30 some odd vendors um i'm assuming that that you know since it's a well-known population of qualified

2:15:01 vendors doing business in the caribbean you solicited your current vendor or at least what had been your current vendor both vtol and carib carib gas yes they are all under um the bidder's listing that we sent out yes okay so your testimony is is that care of gas and and uh vital both were directly selected with this version of the rfp there were two of many others yes like i said directly we did 36 and if anyone else requested packages we also send those out as well and the advertisement it is available online the rfp is available online okay one of the other criticisms and it came up in the comments of the original RFP was that the volumes that were used were somewhat pro forma. And I think that also was an answer that Director Knight gave, somewhat of a holding point. They didn't actually reflect either the current consumption of the utility nor its projected. Did you guys tighten up the actual volumes that you were asking people to bid on this time or did we just did we stay with the same numbers and the numbers reflect the average of our usage um the previous numbers were also in line with average usage i think they were not but i'm not in a position to demonstrate otherwise today they were well in excess um and and the situation is quite fluid as you know in the virgin islands because we're bringing on substantial components of solar, which are reducing our energy requirements to fossil fuels by about 30% on each island. I'm just curious if we reflected at least the future potential for those reductions in this new RFP, or we're asking people to bid the old consumption rates.

2:17:02 Can I just say one thing just for you to be aware? the procurement process that that is followed with authority is the project managers project departments they have a need and whatever need they have they put together an RFP it's not to eliminate or isolate anyone else from any any specifics is we know what we need and we're requesting from the public for them to provide us the needs so and most of it is negotiable when comes to rfp it's a negotiable thing just like attorney st clair express to you um when you talk about the storage all of those are suggestions and what we need and we're hoping that we're going to get the best results back so not to isolate or you know we're very clear to make sure that you know everyone is at an open level okay well i understand proposals i understand that's how it's supposed to work. And that's why we're asking questions today to make sure it works that way. But I did find it a little interesting that even though I know that the authority is well aware of the effects to its future consumption, I mean, very specifically has knowledge of how its consumption is going to be changed over time as they replace old, very inefficient generation with new generation, and as they bring online solar and battery storage to reduce the overall fossil fuel requirements. I just find it interesting that you would publish an RFP that makes no attempt to quantify that for the vendors that you're asking to enter into long-term contracts. I understand it's all negotiable, but when you say something is negotiable, What you're really saying is anybody who asks that question, you'll answer it or enter to a discussion with.

2:19:00 But if you have the engineering knowledge, why aren't you just putting that in the document? I mean, I don't know if there's a misconception. This RFP is for a two-year process. The end users, as Miss Albain has discussed, do a future forecast within their subject matter expertise. Based upon that forecast, they issue an RFP that includes the numbers and the likely average of what would be purchased. I do. I take your comments, and we are all very excited about a future with renewables and everything else. The two-year window, I do not think, would be disparate from the future forecast that was predicted.

2:19:53 Well, at a very minimum, there will be 30% less fossil fuel by kilowatt hour generated on these two islands over the course of the next two years. typically it's actually already the case in St. Croix to the extent that you make any progress at all in the next two years at replacing the enormously inefficient fossil fuel generation that exists on both islands and is still in use you'll also see a reduction in the next two years I'm just restating the comments that were made by the vendors in the first process and wondering why they resulted in no modification to the RFP process in the second case. Now, I haven't seen the RFP, but your testimony today is that substantially it's unchanged. I just find that amazing that we'd go through a process that by the director's admission failed and we wouldn't actually make any changes to that. That makes no sense to me.

2:21:00 Commissioner Hughes, Loretta Kelly, CFO. I'm going to make some comments in terms of perhaps on the periphery. I'm myself not involved in the contracts management and the RFP process of this, but if I could give you some context, I am in a weekly meeting with the operations management directors and COO of the electric division, as well as internal team members that report to them. that attorney Sinclair made. I was present for some conversations in the run-up to the numbers of kilowatt hours of what our expected usages were for the next year that went into our budget, and then

projections for the second year out.

- 2:21:50 Those, excuse me, those conversations led to the expectation of gallons that would need to be purchased. again i i don't want to misspeak to commissioner hughes because i am separate from that project and i am separate from i have not seen the rfp but i do know that we had conversations about that in our weekly meetings when we planned for our fuel we have a meeting every week that mr knight myself the coo are generally typically involved as well as there's about 10 people on that meeting and as part of that we do we did project what it was going to be for the next year and the second year out it would be my expectation that because we discussed that that those would have been the numbers that would have been included but again i don't want to misspeak but i do want to let you know that that conversation was had and that finance was asked for us to check it to the budget in terms of what those conversations were thank you um i just it it comes to mind the definition of insanity is is doing the same thing over and over again and expecting a different result these were prominent comments in the first rfp process and and that's a process that according to your director resulted in every single applicant being disqualified um in the initial in the initial stages that there were no apparently no people qualified to to supply uh propane to the virgin islands even though one of the respondents was your current vendor and had been doing it for three and a half years that's just an amazing fact to me that that we managed to disqualify the entire industry through our rfp process and then didn't make any changes effectively to it i just wanted to clarify when i i said it they tweaked it we did
- 2:23:49 make some changes to more fine-tune the rfp but our needs are still the same we still have the need that the authority is requiring to have and again i guess i guess i have to depend on the department and they know exactly what they're looking for in rfp mr bain i know you have to take the inputs that you receive um you're you're there as an administrative process not a technical process so i i appreciate that that you know you're somewhat limited in your ability to shape the rfp uh directly um if i could just just very briefly because i i don't want there seems to be a disimpression and i don't want that to be the lasting one with the commissioner with the commission or with the public the reason that the first rfp did not go forward were not that people weren't qualified or vendors weren't qualified to supply for the price point that was being demanded it would not have availed itself to anything that that would have benefited the authority and certainly would not have benefited the people of the virgin islands because of that and pursuant to our own procurement process we closed out that procurement we went to direct solicitations and were able from that process to get a viable option there were a number of vendors who went directly to regulators or legislatures or elsewhere i guess once knowing that they were not selected and that to me impeded the integrity of the process and it's
- 2:25:38 something that you couldn't do other under federal procurement just to be clear um so in this process we are tightening that undue influence will not be considered or waived and it will be a straightforward transparent um procurement well i am aware and i'm sure you're aware of it as well i could supply you with a copy of of the proposal but i'm aware of a proposal that was made directly to the utility not to the board not to the psc not to senators um that was was substantially below the selection um that you subsequently made with Empire and well below the selection that you've made with Empire in the interim six-month contract um that proposal that proposal received no substantial reply from the utility it had uh i know you were on the call um there was a call to qualify that procedure and it was not a productive call so i i appreciate that you know we can talk about federal guidelines for procurement but the process here is not has not been productive and it doesn't seem to be changing i guess we'll know in 15 days whether or not it results in any new additional interest this is one of the reasons the virgin islands never really seems to be able to get market rate um participation from uh established entities um because we have a reputation for for this type of a process i won't characterize it further because i don't want to further i guess disparage your uh your attempts um but this is the result that you get is that no one wants to bid on these contracts you'll get a very limited participation in this case even though there are 16 companies that do bulk transport in the caribbean you're you're not going to get 16 bids um you might get one or two plus you know the incumbent that you've you've given the six-month interim contract to um chair i don't have any thank you we're gonna hold on hold on we're gonna let us turn this in clear respond and then we're
- 2:27:59 going to move on yeah my apologies i i'm i'm not trying um i'm not trying to do no need to apologize let's respond if you care to yeah my concern is is with um misimpressions that are left um i believe that the proposal that commissioner hughes refers to came after our last appearance here there was a proposal received it was limited to st thomas and left out completely st croix and although the numbers then could be argued to be less than the one that we had previously picked the additional cost and and and i i don't even know we would have been able to get the um the shift needed to go into st croix because st croix is a particularly challenging channel um would have it made it almost double in actual value that is that is a complete mischaracterization of that proposal that proposal and chair i'm going to offer the attendance of the proposal for for the record that proposal hold on commissioner hughes i said attorney can say we're gonna have the last word over there we're gonna move on you all have difference of opinion and that's it's not a difference of opinion chair and i will respond to the comment because she has mischaracterized the proposal and and i'll let that stand on the record

mr hughes okay you're not recognized at this point i would like to go on after the other Commissioners, what an opportunity.

2 : 29 : 45 Commissioner McGrath, do you have any questions or comments? Yes, I just want to know. How much longer is that buyer going to be supplying? I think you had a six-month contract, you said? That's right. And when does that expire? We started the six-month contract on September the 15th of March for six months. When does it expire? I believe it's March. March 15th. Why would you go six months? Because we were requested to do so. We were requested to do so, not including by the Public Services Commission. We were requested to do so, including by the Public Services Commission.

2 : 30 : 29 To do a six-month contract? To do a shorter contract. A temporary contract so that we can do a new RFP process. i understand that but why six months we wanted um if i if i could i think you were suggesting they should have been a shorter yes yes because because this is supposed to end on october 30th by by november you would have had november december you would have had a new contract in place why go till march all right if i may we wanted to permit sufficient time so that if anything happened that the procurement process would be defeated we were also told by the several vendors that we reached out to to see if they would do an interim contract and no one would do less than six months because apparently you have to charter the vet everybody charters the vessels and in order to get them here if you're not using the ones that are in the particular it takes time to transport the vessels here and the logistics of it would not have made it possible the vessels are not i i'm not sure which ones they are using but you can actually go online and see where each of these vessels are at any particular point and then they have to make the journey to come here no follow questions Commissioner Hughes you wanted to say something else yeah first of all to Mr uh the Commissioner McGrath's point the uh to get into St. Croix requires a a 10,000 cubic meter capacity ship that's not widely available um the entity that was entered into Empire chartered has chartered a vessel called the Victoire that was over in the Indian Ocean. It's on route currently, may have actually arrived. It was scheduled, I think, to arrive the 3rd or 4th of October to receive Coast Guard inspection. There weren't very many people that had that ship available. One of them made a proposal to, so, you know, nobody wants to move a ship, Commissioner McGross, for surprise, they moved it for six months. And I'm not certain there is an implied contract that to uh some promises that have been made to empire um because six months is a very very short amount of time to lease any vessel uh particularly if you got to move it all the way from the the indian ocean right here and and presumably back um with respect to the proposal

2 : 33 : 06 that was received by the authority uh the specifics are as follows um the entity which is uh an entity which had already been doing business with the the authority for the last three and a half years the incumbent provider of all lpg to to uh direct delivery to saint thomas offered to uh to continue the contract um for a period of two years for the benchmark price for the acquisition of lpg so it's basically benchmark plus 34 cents um very market competitive contract but that's only into saint thomas and that requires a specific size ship about 64 000 barrels is the largest ship that can get into saint thomas so that ship cannot get into saint croix so a second ship is required um that um that entity offered to provide the transit from saint thomas to St. Croix of necessary LPG using a second ship, a dedicated ship at its cost, which is essentially the cost of the lease of the vessel plus port fees and bunkering, which is the cost of fuel to get back and forth between the two islands. It's got to go about four or five times a month to meet St. Croix's needs. And that entity had experience and visibility to the volumes necessary to service st croix out of st thomas which is currently how it's being done and almost certainly how it's going to have to be done in the future so that entity did not provide a proposal which which would have created under current volume conditions a price even even equal to that which we're now currently paying empire the blended parts of that contract proposal which wapa did not uh did not meaningfully respond to was benchmark plus 43 43 and a half um i think we're up in the mid 50s now with empire and interim basis and i wouldn't expect we're going to see bids below that um from other entities those are the facts of the proposal i have them in writing they were they were provided to our general council they were provided to wapa's board

2 : 35 : 21 members they were provided to members of this the legislature and the proposal was made directly to not made through any of these other entities and it was not meaningfully engaged uh wapa instead went back to empire and signed a contract um in its direct negotiation for something on the order of benchmark plus 52 um which is by the way a contract empire it's it's still inbound for st croix they subcontracted the proportion or the portion of the direct to saint thomas leg to a company called geogas which is an established and credible supplier in the caribbean um that's what's happening right now and will have to happen for the next six months and then this new rfp process will will take effect thank you chair appreciate the extra time let's see well i think maybe unfortunately for the company one of the things they failed it was maybe submit the proposal to the commission of the commissioners uh or maybe our general counsel should have sent it towards that because i don't recall seeing it well i i do recall having made it uh offered to make it available to each one of you i didn't receive any response um but but boyd sprain had had the proposal when it was made um i had it i was copied to it when it was made as were members of the WAPA board and I provided it as well to one of our ex-officio legislators

so that he may be aware also the attempts to provide a market-based supply of fuel to the territory with an at cost which is an extraordinarily generous offer and at cost provision between the two islands not not a markup no profit just whatever it costs them which is whatever it's going to cost anybody else was was the nature of that proposal so anybody else people doing it for less than that i'd be losing money if there's something wanted us to be aware but consider they certainly did not go to the proper channels of getting it to our attention well we we are we are to miss nclair's point we

2:37:26 are probably shouldn't be that involved in the process but we went to it and i did offer you specifically and each of the commissioners um the opportunity to review that proposal as well i receive no response so if i could briefly just clarify for a moment there there seemed to be a suggestion that the authority is in agreement somehow with empire outside of the procurement process so i want to just make that absolutely clear that that is a hundred percent not true i'm really trying to even understand why such an allegation like that would ever be made and made publicly when there is absolutely no basis to it also in terms of the commission's involvement and selection of a vendor that is exactly why the process goes through the contract management administration it does not go through the legislature it does not go through the pse it does not go through whopper management in order that every vendor have a full and fair opportunity to submit their proposal and have it considered without a finger on the scale by whomever but particularly by those who are empowered to impact selection that is exactly why this should never happen well you'll note that all of my comments have been um to attempt to defray any attempt at a it's what's called a directed contract and and unfortunately the the utility has had a history of directed contracts to vendors. So that's what we're trying to avoid, Peter Sinclair. I know you're trying to avoid it as well.

2:39:31 But the role of the PSC is to make sure that WAPA follows a process, the same process that you just saw. And that's all we're attempting to do here. We're not interested in being part of the negotiation or bringing a particular vendor to the table. We're interested that you guys follow a correct process that does not result in directed contracts. That means exclusionary provisions. That means the selective transmission of information to one party and not the other. These are all aspects of a proper procurement process, and that's why we have it as a docket item, and that's what our concern is individually. Not interested in being part of your procurement. Very much interested in the process. Thank you. we're gonna we're gonna move on um next item what would you generation rfp good morning chief financial officer and similar to the conversations that we've just had in terms of procurement being outside of weapon management, I would like to just reiterate to you, I believe that Director Williams-Octelan was invited to attend this meeting. The new generation RFP is being handled by the Office of Disaster and Recovery and to that extent I do not notice that she is present i don't know if her or one of her team are online and to be able to provide that update on the rfp very similarly to the procedures that what is the update that wafa has what's your knowledge of that and tell us from your vantage point um i am not personally directly involved

2:41:27 in that rfp i do apologize commissioner means i i cannot personally do that response somebody from the three of you can respond to that i mean i don't believe we have a schedule for that one we do not have okay you mean i have a schedule tell us generally where we are what's happening um if i may defer we can provide you that information by email i do apologize for not having a specific i mean you could supplement your testimony by sending me an email but i just need to know what's going on it's anything clear yeah so for that one we're part of the rebuild usbi um mou with various agencies um because of that this particular procurement is being led by odr um i guess we had thought that someone from the office i know they were invited would be online um i do know that they have um selected the overall general manager um a firm and that firm in and of itself has issued a procurement which has various parts within the one procurement so it has one part is the temporary generation one is for proposal for the overall generation um but in terms of the timeline and the um bidders and and things of that nature is that we usually have that information ourselves um we i am not aware of that um so if you could get all that information and then supplement your testimony by providing it to us by email within the next 10 days that will be appreciated certainly so we will absolutely do that mr hughes any questions no sir no mr williams has his hand raised commissioner williams

2:43:27 yeah i want to apologize for not being in the meeting most of the time but um i just traveled over to st that was you know i've been listening to the bits and pieces of the conversation and um i was still wondering and i got the tail end so forgive me for the redundancy but i i'm still interested in and and i think commissioner use you i don't know if you answered pretty much what my concern was but to wapa is did you discuss a timeline a potential timeline for getting a contract in place i might have missed it we can have the staff email you what they provided to us this morning my my question mr chair that that's fine but i still want to hear verbally if there was a discussion that suggested any type of timeline well i did have the time my nicola being um contract administration manager i knew the timeline i provided today was a timeline for the rfp completion which in turn um would be all proposals must be submitted by october 24th thereafter if you just want to understand the process if we go to um the evaluation stage so we have an evaluation committee and we usually have a turnaround time for recommendation within 30 days um thereafter it would go to the board for approval because

again the evaluation um committee is just a recommendation and then thereafter we go through the negotiation of the contract stage um so you know you're talking about you know a few months mr bain i mean correct me if i'm wrong but but we're under well no it's to answer raymond's

2:45:27 question but hold on i didn't know let's try to do this in early fashion commissioner williams have you concluded yes i that's what i along the line of what i was inquiring hello commissioner hugh i i think we're i think we're obligated until march 15th to buy propane from from empire i can't imagine they moved a ship over here without at least the six month commitment for under the contract is that not correct that is correct okay so so your process could take the five months we have remaining it wouldn't matter if it took three we're still going to buy propane from empire until march 15. we do have a contract in place with them yes i think that more succinctly answers commissioner williams question that we're we have a transition on march 15.

2:46:34 we don't have a clause in the contract that states if we should decide on a new supplier that you know your services it has to be for six months an early termination call right no and i think as i was that makes sense yeah with the logistics the rest of the six months okay thanks all right there's nothing further thank you for your testimony presentation thank you Thank you.

2:47:05 Thank you. Thank you. Thank you. Thank you. And I just wanted to mention the rank of the CFO before we leave. I know that there was Greg Kelly, Chief Financial Officer, and before the WAPA team leaves, I believe there were some orders that were from the past that we wanted to make sure that we had received. If I could just follow up and make sure that those would be forthcoming to us so that we we can receive them formally from the psc which orders orders from the december meeting regarding the liac there was an order from the march meetings regarding the liac and then most recently an order in terms of the the uh yeah break not changing in the last month we want to make sure that we have that for me and we do not have those orders from you actually why you don't have them but you should have them nice to do the business today thank you thank you sir it was sent on the september 20th okay thank you which one are you missing there are we have um the last um meeting i believe that there were other orders issued on um on other areas not just yet and so those we don't have but we haven't specifically but tell me what is it that you missed there was some customer service orders there were um i think that's hedrick's orders yeah but there are other issues so so what we do have that is concurrent completely up to date and we have all the assessments we get those right away right away and now like a check right away now we have uh we have finally received

2:49:00 i think the all the outstanding right so i think we're going in subject matters right now customer service orders you still all right we won't have those thank you thank you nope you addressed it all right before we conclude we do need to um set our calendar for our next meeting this doesn't involve them no thank you thank you so our regularly scheduled meeting is um set for october 14th so our regularly scheduled meeting is set for october 14. however we have october what 14. however we had the meeting today that doesn't give staff enough turnaround time to be prepared for the october 14th meeting that means the agenda would need to be out on friday if we continue with the october 14th meeting I don't know what my response to that is. I'm not sure why that would make a difference when the next meeting is.

2:50:32 Right, but we need to get the agenda items together. That's not going to work enough. So what you're saying is that you don't want to meet on October 14th. i'm not saying that we don't want to meet on october october 14th i don't know if we have sufficient information to be able to meet on october 14th we don't know if we have enough talking points to meet on october 14th so the question is does the commission want to meet on october 14th that's october then in um november the date that we normally schedule our regularly meetings are are will be october i'm sorry november 11th which is veterans day that's a holiday in addition to it being a holiday naruk is also conducting the seattle um conference at that time so that date also needs to be considered so i'm bringing these matters to your attention so that we can make a decision now that we have all parties involved so we don't have to relay on the um email system well or what i suggest is that all commissioners for meeting between october 14 and probably november 5th um that will probably be a combination of what would happen what would have happened in october and november says we're probably not going to have a november meeting during that time frame because after that then you're going to thanksgiving all right why don't we have why don't we not have a november meeting but maybe move the october meeting maybe a week ahead of what it's scheduled or october 14th and november 5th to have the next leader do you propose a date for that

2:52:26 Can I propose the 4th of November? I mean, if everyone's available, we can... I don't know my calendar, so I can't say yes or no. But if that's a consensus, I'll check when I get back to my office. So just to clarify, we're going to forfeit the 14th or are we continuing with October 14th? We're going to forfeit October 14th and November 11th.

2:53:04 And we're going to have one meeting on November 4th or whatever date it is. We're going to cancel the date for November 4th. And we're going to continue with the 9 a.m. timeframe. Yes. Okay. november 4th what is one thing that's a tuesday tuesday november 4th okay what's that do for raymond i mean that's kind of an election day right election this

year yeah no that's a joke no but uh well you were running yeah i'm trying to run out for all these um boards that's what i'm trying to run but yeah the fourth i'll be available okay so we'll have mr reynolds formally send an email out just to have everyone check their calendars and then we can um confirm based off of that okay sounds good to say november 4th and that was that's it we just wanted to lock down the calendars oh and i did we do have the letters prepared we need to get that filing in today for the fcc recertification if you could be so kind as to sign those so that we can work on those yes yes so prior to you leaving today i would appreciate those back so that i can submit the filing

2:54:59 yes miss reynolds prepared those in advance because she was not going to be here today so those were ready from last week we're off the record right no we're still we're still here

People named in this transcript

SUSPECTED, and a finding aid only. Names were matched by machine against the spellings used across all 426 of our transcripts, and the title is the one used in the room. Being named here is NOT evidence that a person attended or spoke · only that the name was said. Speech recognition mishears names, so a spelling may be wrong even where no alternative is offered.

4x **Commissioner David Hughes**
heard in this transcript as: Hughes

3x **Commissioner Clement McGrath**
heard in this transcript as: McGrath