



PSC Regular Meeting - Tue Feb 11 25 - Public Session

Public Services Commission (PSC)

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- 0:00:00 Thank you. [1 such phrases repeated 15 times · standby audio before the proceeding, transcribed by the recogniser as speech]
- 0:07:30 We're back to the regular session. The commission moved out of the executive session or went into executive session to discuss legal matters. When decisions were made, we're back to the session. We're going to continue our agenda for February 11, 2025. I want to say welcome to those of you who have joined us since an hour and a half ago. We're now at item number two on the agenda, PSC elections.
- 0:08:13 Are there any nominations for the chairman? Motion, motion. um with permission raymond williams i move that um we continue i'm not nominated i'm making a motion to nominate both chairman the existing chair hebrew williams to continue the term and and the vice-chair so moved.
- 0:08:43 Second. Commissioner Lauren Nichols-Sams, I second that move. We have a motion that's been seconded twice. So there's no discussion, roll call. Roll call, Commissioner Temek-McGrath. Yes. commissioner lauren nicole sam yes commissioner raymond williams yes commissioner david hughes yes commissioner pedro williams yes mr chair we have five vote to be a no nays the motion is carried unanimously all right so thank you very much to my fellow commissioner and now for the vice chairman and myself a lot of confidence and all the hard work begins all right so we move to item number three on the agenda consent agenda who speaks to that good morning brenda connor accounts maintenance officer today staff recommends the commission to enter assessments on the following documents docket 556 by telco universal service fund 480 dollars docket 589 choice by telecom application for etc certification 480 dollars docket 669 broadman bi etc certification 1384.21 docket 670 liberty at at&t application for etc certification 480 dollars docket 702 waffle yeah 18 342 dollars and 10 cents docket 703 wapa deferred energy one thousand seven hundred ten dollars and fifty three cents and docket 704 global connections in corporate of america doing business as stand up wireless six thousand five hundred

- 0:10:44 is there a motion i move that the consent agenda be adopted is there a second second motion made and seconded any discussion there are none roll call roll call clement mcgrass yes lauren nichols sams yes Yes. Reman Williams. Reman Williams.
- 0:11:25 David Hughes. Yes. Yes. Thank you. Mr. Chair, we have five votes in the motion is carried unanimously. Thank you. of four ferry companies docket 691 who speaks to that uh if i've made mr chair we had a filing some time ago let me back up the coherent explanation on the records we opened docket 691 about two years ago regarding the rain investigation into the franchise ferries uh on behalf of the fairies attorney hodge made a filing in 2023 regarding uh changes in the in the applicable law regarding the franchise fairies that are distinct from the regulated regulatory regime applied to all other regulated regulated utilities the biggest issue on that is the use of the term fair use value and the other one is the rate of return that those companies are entitled to under standard regulatory practice uh rates are excuse me the value of assets used in the operation of the regulated utility is based on the book value the actual price paid for the asset and then it's booked and appreciated in a straight line depreciation across time a fair use value would be one where you would have any remaining value of that asset after it has been fully depreciated remain on the books and be entitled to a return on the value of that market value of the assessment of the asset in the case of waste of the fairies that applies in at least two areas of some concern or how it will apply is an issue regarding the use of the boats
- 0:13:25 that are owned by the franchise fairies and whether those vessels are in fact being used in the operation of the regulated correct of government utility and the second area is the use of the government-owned vessels the red hook one cruise bay one and the pending lease of a new vessel we are not recommending that the commission needs to make a decision on any of those issues today and then the second issue is the eight to ten percent rate of return the standard language in the public services commission's authorizing statute is a six to ten percent six to eight percent rate of return subject to findings based on the evidence for a rate of return outside of those ranges being appropriate the commission in the past has found rates of return outside of the 68 appropriate in certain industries at certain times but the presumption here has changed from six to eight to eight to ten the commission at your last meeting appointed jed john hope as a hearing examiner for a rate investigation in the course of the coming month we are recommending that our hearing examiner sit down with psc staff and the franchise fairies and develop a scope the documents and procedures for the rate investigation these issues are ones that should be fully explored and uh evidence submitted testimony submitted in the course of that raid investigation so we are not recommending a resolution to those issues today we're identifying those issues for the benefit of the public and the uh ongoing raid investigation wanted to get this clear and that that is all moving forward with the hearing examiner's appointment and the opening of that raid investigation thank you any questions from the commissioners
- 0:15:19 i see maria hodesges president i don't know if she has any comments i don't see a hand raised but teddy hodesges do you wish to be heard well mr chairman as long as it as attorney uh sprain is not recommending the commission take any action i don't need i don't know that i need to address anything with the commission today very well thank you yeah All right, thank you. Move on to item number five, telecommunications, Second 669, broadband VI, can you speak to that issue? I believe on the petition for interconnection, we have both WAPA and broadband VI traffic.
- 0:16:22 identify yourself for the record of measure right hands to be sworn yeah sinclair general counsel for wapa elise memphis i'm a senior manager for military at first do you solemnly swear that the testimony that you will be providing today is the truth the whole truth and nothing but the truth itself you've done thank you who wants to go first I think we appear before you today in the spirit of collaboration right then formerly liberty first reached out to to walk up for access to the polls at that time it was about 2023 and there was no um understanding really of what infrastructure remains following the storms what was attached to the infrastructure and what could be safely placed onto the grids onto the polls and onto the grid um the authority had undergone um a solicitation for uh a vendor to conduct a gis study uh for that very reason to let us know the the remaining polls that were within the system what was on those polls and what could be attached uh that information have been communicated to to liberty but they of course under their own funding structure have had time constraints um we did try to uh have a portion uh with a specific you know cadre of polls that that were needed and we did relate that the the study that we had had created the storm and it really could not reduce we had initially tried to address the polls that were identified but then found um after a study of some 100 polls that at least half of those that was selected for attention no longer existed so it really pointed to the need for this this study to be conducted um we then tried to align the study going forward with uh the design um that liberty
- 0:19:12 had in terms of what um portion of polls would be needed first um there was um work done in anna's retreat uh last year where um the study and and the work from liberty did align and we were able to to get those done and assess and make early work done and attachments occur we are now working to see if we can identify vendors we have some selected who can now work simultaneous simultaneously to get those assessments done and in a more um expeditious

fashion because there was some difficulty in selecting a vendor who can do the breadth of polls required in the time required um so i think that we have found resolution for that and just having you know more than one work at one time um to get that done um you know within the the framework of what is needed so as we sit here today we are finalizing a bold attachment agreement with um and we are also finalizing the vendors in order to um initiate the work that's needed in a rather um expedited fashion the question is what's the time frame when you have something done i communicated um a follow-up on um one of the vendors to liberty this morning i'm just the way they their response um

0:21:00 So depending on that response that vendor at least can initiate their work by next week. I would expect that the additional vendors would be able to mobilize soon thereafter. But this one particular vendor is already on island, so that situation is different, and it would be able to commence work much, you know, at a faster rate. What's the time frame for concluding the agreement with board ban?

0:21:33 The agreement with board ban, and there's an interim agreement, but the permanent agreement with board ban, you are trying to conclude that this week. By Friday, February 14, 2025, no later than 11.59 p.m. we are making every effort to have that signed and finalized this week. Yes, I think this inquires background is, is accurate. And we understand, we always understood the constraints that WAPA has operated under when we filed this petition For relief, for intervention from the BSC, really, it was because of a real concern we had that this had been going on for several years, right?

0:22:31 It was a long period in which we tried to obtain access to a WAPA pool infrastructure, and we were on it. And we understand, right? And I understand Ms. Sinclair's, Attorney Sinclair's background. but that was that was a concern as you know access to pole is an integral part of us being able to comply with FCC milestones uh deployment milestones um this year aerial build this is really a top priority for us so to the extent we are unable to access full infrastructure it will absolutely impact our capacity to move forward um and that's the pressure we were operating under um i um conversations were very productive last week uh we had several meetings with with waba um i agree we have a document with which we feel comfortable there's still um issues regarding costing that we need to fine-tune uh i would say costing has been uh pressure point. I'm being fully transparent here, has been a pressure point since the very beginning of the negotiations. We understand that prices certainly do not correlate with the mainland US market, which is understandable, but do not correlate with other markets in the Caribbean either. So that's a concern we have, right? Despite that, I think we've made progress in the conversations and we're moving towards something that I think is mutually beneficial so so i do agree that by the end of this week we could have something that is uh final and and mutually agreeable that's good to hear any questions from the commissioners yes i have one um

0:24:24 when does your 30-day window when is your 30-day extension over that the fcc gave you March 31st. For the 40% deployment milestone, the FCC granted an extension until March 31st, 2025, and it requested comment on the possibility of extending that extension until December 31st, 2025. Does it require any accomplishments within that time period in order to get the other extension i'm sorry okay can you repeat the question i'm sorry this is an accomplishment for you to get the additional extension to december but well no not accomplishments on on drop fbi's side really the fcc is hearing comments from from other interested parties uh to get the opinion of the market on whether it should or shouldn't be extended until december 31st are you asking the are you asking the psc to to enter this discussion with fcc or offer comments not not formally this is not something i have uh consulted with the business but obviously our position is that um an extension until december 31st would allow us to comply fully with the with the 40 percent deployment milestone thank you mr chair questions no questions thank you no question staying with the pole attachment interconnection uh item for just a second

0:26:14 um we love stipulated agreements we really hope you guys can get there and in the time frame that the chairman has suggested to you um i would like that agreement submitted to the public services commission for their approval and and for filing we have a policy interest you're not the only telecommunications company in the territory and the authority is fully regulated we'd like that agreement submitted for approval when you are able to stipulate your own agreement as long as it you know it's really confidentially uh i i have i i consider that these should be confidentially and some of the positions in the agreement are you can make that request with this all the time our consideration is that there be a certain amount of uniformity in this interconnection issue we've really never taken it on as a commission but it's in the public interest that a public asset be treated fairly for all those that access so we're uh we're going to take a look i'm going to take and speak for the rest of the commissioners not going to take the greater interest in this particular agreement because i think it's formative to the next person down the line i don't think we have an objection with respect to the interconnection agreement itself with respect to the fees um some of that the ability to have a certain range is done because of the numbers involved in this agreement so i you know with respect to that i i enjoy what a tournament doesn't and that concern when you

- 0:28:06 um i'm trying to be sensitive to the issues of confidentiality but when you submit this agreement uh it'll be a it'll be docketed and we'll we'd love to know the justification for the agreement that you reach because then we don't have to do the homework necessarily perhaps you have in terms of market and stipulated cost keeping in mind that the commission not the authority has statutory authority over pole interconnections of the territory and the pricing they're happy to have you guys present your stipulated agreement the commission has authority over full attachments in the technical including their pricing and again just to reiterate once you make yourself little you can explain anything that you want to bring to our attention that you want us to be aware of this justification as to why these are the prices that this is what we're doing not saying attorney Sinclair that we'll get involved just making the case we can and we will if we feel as necessary so um okay and just obviously understanding that when the fees are passed through in nature the authority has no ability to control the fact so all right thank you anything else you want to submit to us i'm sorry beyond the petition for interconnection we have on here the mcc's grant of extension and the implications of that i'm looking for an explanation from of nvi as to what their current plans are for the build out how they're proceeding and and their annual status report i just want to remind the testifiers that they have to speak up because we have the court reporter
- 0:30:03 online so you have to speak up so she can get all the information thank you a really good the microphone good morning my name is john santiago associate manager for regulatory affairs for liberty vi uh rovintra maywella general manager for liberty um yeah do you solemnly affirm that the testimony and the evidence you're about to give us the truth the whole truth and nothing but the truth thank you so good morning uh commissioners uh congrats on your reappointment that's chair and vice chair um so last time we were here in uh in december we informed the commission of the petition at that point that was a it was a petition for for a waiver that we had submitted to the fcc in late october uh based on our conclusion that by the end of december by the end of december december 31st we would not reach the 40 percent deployment milestone that was due for for 20 for 2024 um and um and on december 20th i think it was about 10 days or nine days after the public psc meeting the fcc in fact did issue uh the uh the the waiver or rather it's more an extension of of the milestone of the deployment milestone that my colleague already already explained is until march 31st 2025 um currently and so that was it was a partial grant of the of the request that we made on on in late october uh with the possibility of a full extension of that 40 deployment milestone to December 31st contingent on a public comment process.
- 0:32:21 I do want to clarify that I do believe that the formal window in that public comment process has closed. That does not obviously forbid the PSC from engaging with the FCC and giving it its perspective. So right now we are awaiting basically an FCC decision on that further extension. The waiver itself, which was granted on December 20th, basically makes a number of conclusions based on our petition. It concludes that the waiver was granted due to delays in and obtaining permits from the USPI Department of Public Works and pull attachment agreements from the Water and Power Authority, which we just discussed. The FCC also underscored its commitment to enforcing the necessary milestones and all other pertinent rules to the connect USPI initiative. So at the same time that it granted us flexibility, it also required or demanded accountability.
- 0:33:34 The waiver, as it stands, does not affect future milestones, other milestones that we have to meet, 60%, 80%, and obviously 100%. And the FCC also acknowledged that some delays are unavoidable and that it has granted similar extensions in the past to other grantees. um based on based on that it granted the the partial the partial extension it opened the public comment process uh we received uh some comments uh one comment uh from via and uh and we replied to that in due course Commissioner McDonough, any questions?
- 0:34:24 Yes. What were VIA's position on the extension? Well, as you can imagine, VIA opposed the extension. On what grounds? So VIA made a couple of points. I'm summarizing here, but one of them is that we did not plan well, basically, in preparation, basically, for the Connect to USVI initiative. In our reply, we responded to that. We responded to the plans and preparations that we did immediately after receiving support in summer of 2021 and and also we detailed the unforeseeable delays that occurred during the deployment which are obviously unforeseeable right uh by definition uh via also includes an argument about uh they say that that we should have focused our deployment more on uh on undergrounding and that way we could have avoided the WAPA issues, you know, but that sort of, well, first of all, it ignores the other issues related to DPW that we had detailed in the petition and which were further explained in the reply to VIA. And, you know, I mean, I think in arguing that it's somehow easier to deploy underground infrastructure, they ignore their own strategy, which is to focus on fiber right um so so we replied to that as well and um and they also argued that that that they should keep um the the transitional support that they have been receiving from from the fcc in case that we do not uh that we cannot meet our our deployment milestones etc oh so you know it was a number of points that we that we've uh replied to in due course um and uh yes
- 0:36:38 thank you mr chair no questions thank you mr williams no question so the strategy at least to get to this 40 seems to have pivoted a little bit to try and get on the polls quicker and easier and i hope you're successful in doing that with attorney

sinclair are we making any progress with department of public works on the underground delays what's the status of that portion of your project is it has it gotten better is it still the same so it's yeah of course so uh it's it's gotten a lot better um last year sorry repeat your name for the court report thank you uh rovin dramella uh general manager of liberty vi um last year we were able to work with the commit bpw uh to streamline a process and have regular meeting meetings since we started that process um the requirements for permits that are being submitted has become a lot clearer you get a better understanding as what you're looking for there are um you know ongoing developments and additional requirements as you go down the line but the key is as we're discussing and on a weekly basis these things are ironed out so the process itself has gotten better and we have you know in past prior to last year i know the team had made you know a request of is there some sort of a checklist that we need to follow when submitting these permits or can we have regular meetings those things for most part i know behind us with these weekly meetings and we continue to work with them with the commissioner gabriel and his team to overcome any other challenges that we encounter along the way as we are rolling i also do want to underscore that you know by december 31st 2024 we did uh

0:38:47 surpass uh 9200 locations uh we reached more than that which was uh sort of uh had we not received the waiver that would have been like the worst year of non-compliance we we weren't facing that situation even uh had we not received that that waiver uh and right now um you know we are working constructively with the agencies uh and we're also focusing our deployment um in densely populated areas where we have our infrastructure close where we have the ingn's infrastructure close which we are working closely with as well um so so you know um aside from from the aerial strategy there are other things that we're getting into play so shortly we're going to hear from waste management and we're going to listen to a presentation on the prudent replacement of the storm and wastewater management system um huge project very important project for the territory and for lack of a better word there's a task force that has been formed to coordinate those efforts with other interested parties obviously public works since we're going to be digging in the dirt wapa because they have the water replacement component of that as well are you guys participating in that task force right now are you yeah representative we have the utility meeting we have team members aware of that uh the project that's about to start in saint poy um we are you know we're something that our plans already that is as the art is open we're going to put all kinds of so to the extent that we're going to actually finally do dig once in this territory you guys are involved yes okay thank you so during what coma was a comment period i think closed commissioner on january 14th if my memory serves me correct and then there was a

0:40:38 reply comment period of seven days until the uh the 21st said close on january 14 yes when was it open i i don't recall that i don't recall your best guess how long was it 30 days i'm i i think it was about a two week uh a two week a two week process but i don't remember the the waiver itself was granted i remember on on the 20th of december um i i don't recall if the public comment process was immediately opened but and it was closed on for on january 14th how was that advertised how will people notify that there's this comment here it is so the the the fcc waiver uh decision is a public decision that gets picked up by wires that uh that basically monitor like communications news um and that gets thrown out in different like email chains with different providers etc yeah um so it is um i i think i've seen some some news that have been forwarded to me from the media team about like uh for example like uh our comments submitted and because it is all public so it gets picked up by these waters right but you didn't put out any notice for the public that there was this public comment period relative to your request we we did not no that we think that's something you should have done well um we didn't think of it we had no regulatory or legal obligation to to do so and again it is advertised by by other private parties and it is a public process by by the fcc i would just suggest for future reference that that's something you you want to consider and to be put out of public lawyers.

0:42:28 Thank you, Chef. All right. Any other questions, my commissioners? And it's good to know that, you know, you're making some heavy with public lawyers in terms of trying to get information. All right. Is there a comment on your construction and burnout report? that is looking at the agenda all right there's nothing else thank you for your presentation thank you commissioners next we're going to move to item number six waste management matters that could several five ways management petition for reconsideration um can we request a brief uh just like a three minute they're on the way because they left and they're trying to come back they were told they were to come back at one and now they're all on the way back i think we just need about four minutes okay thank you so much in the meantime Thank you.

0:44:38 uh commissioners williams um commissioners are you all still there Commissioner McGrass is here I'm here I'm here Commissioner Commissioner Laura Nichols Shams is here I'm great well I thought I thought I'd fill a couple three minutes of dead time here with something that's going to come up in relation to waste management and the presentation we're about to receive there is this task force that was just alluded to by the gentleman from Liberty um i think it's fairly important and actually a very efficient uh use of our resources that rather than bring these public utilities into the commission after the fact um that we actually appoint a or ask staff to find us a consultant who's got some experience in wastewater and storm water and and some power matters to sit as a representative of the psc on this task force it can be

an observer i don't particularly think we need to vote on anything but i think it'd be a great use of our time to actually have our representative be able to brief us instead of having to ad hoc ask these questions on the off chance that the utilities might be in front of us on any given month um i broached that topic with with both the governor and with the um with mr griffith the director from waste management i didn't hear any any objections i haven't asked director knight but i think that we that would be a really simple way for us to keep in the loop on probably the largest single project in the territory for the next several years in terms of infrastructure and i just wanted to present that for thoughts for my fellow commissioners because i you know unless i hear great objections from you guys i'm going to make that motion after the waste waste management matters anybody got any thoughts i think that's a great idea this is commissioner lauren nichols sams thanks dave now commissioner who are you recommending i'm sorry i didn't hear you said you were someone i'm no i'm not going to make that

0:47:17 recommendation here in uh in session but i i do think it needs to be someone with obviously with wastewater experience and that's going to be a short list in the territory um again this is an observer role i'm not expecting to get in anybody's hair with our guy but i i do want to get firsthand information on this project because i think this project is so incredibly important and needs to be done well thought out and done correctly with participation of all possible parties we might be that agency that says hey there's a party absent here that we also would like to have involved you know the big players are obviously already in the room i know they're not going to make not going to make the recommendation right not today all right thank you commissioner grass any thoughts just wondering if you might have anyone in mind who might have that expertise i i do but but i'm i'm i'm gonna let staff handle that not not try and try and front run that so is this going to be on a contract basis or um or voluntary or Well, it will not be voluntary to be the question the question the chair whispered to me immediately was who's going to pay for that.

0:48:47 I think we'll have to add it for rather to general assessments, but I don't think it's going to be particularly expensive. It's it's one individual attending meetings. absolutely i mean my concern i was you know you're going to hire folks you want to be in a position to pay them um appropriate entities that is being assessed against will and in fact to the bill so that we won't get a bad day thank you chair ready for that all right item number six docket number 705 waste management petition for reconsideration fya 2025 who speaks to that matter really value first uh chair the waste management authority filed a petition for reconsideration of its annual assessment this year uh the commission granted that reconsideration would be heard the rehearing was granted a scheduling order was sent in in february in november uh subsequent briefing was submitted by the waste management authority and responded to by the public services commission no rebuttal was filed at the time of the scheduling order it was ordered that all the evidence and information would be provided in the briefings filed in advance no new evidence would be permitted here i understand that attorney kahuga wishes to make an oral argument today and has a couple of presentation slides she wishes to use or information um

0:50:58 i have no objection to the slides that she provided it's up to commission if you wish to hear oral argument at this point study's over you may be done morning everyone Can you state your name and spell it for the court reporter, please? Very well.

0:51:25 Please speak up. We're broadcasting this. Florence Kahugu, Legal Counsel for Waste Management. Along with me, Yolanda Sanderson, Paralegal for Waste Management. okay but so on to title 30 gic section 33 petitions for reconciliation of pst's order should be filed within 30 days of issuance and the psc's order of the psc's order therefore the virgin islands was management is in compliance with the aforementioned procedural process and timeline and is it is the public service commission order was received on September 18, 2024 and waste management petition for reconsideration was filed October 18, 2024.

0:52:20 The VI waste management authority is certain that this commission had yet another opportunity to review the petition for reconsideration and we're confident the commission will make the correct determination this time around. The VI waste management petition speaks of service for itself and its pertinent legal argument in the petition should guide the Commission today in its decision and it's our hope the Commission as a guardian of the utility agencies will not walk over the doors as in the past but rather lead and guide with management and open the correct door. The issue before the Commission today is to determine whether public service commission should be utilizing government of the virgin islands appropriations and special allocation funds to the virgin island risk management authority to calculate its annual assessment fees or by the virgin island authority the answer is unequivocally no and it beggars you it beggars believe as to why PSC, a sister agency of the Virgin Islands government, would choose to use its platform to engage in 20 years of misguided and wrong reasoning that the government appropriation and special allocation funds is revenue for the purpose of calculation of its annual fees. The government appropriation and special allocation fund are technically donations from the government to call these funds revenue is trying to turn apples into oranges

- 0:54:11 to discuss the issue and to get the answers of the current issue we turn to the virgin islands code the virgin islands code clearly provides that the exact provides the exact formula our gps chairman and a step-by-step process in calculation psc's annual fees the formula does not include appropriations of special allocation funds that are received to assist virgin island with management with payments of bills and providing services for providing services to the virgin islands and to pay for the vendors any diversion from this decision and agree or any decision on agreements by pse or any other agency together is a clear violation of the statute and is illegal such a diversion is a violation of the statute and doesn't matter or what i mean is 20 years notwithstanding of psc's continued practice title 30s vic 25 a c and d is clear on its face and provides that the annual fee annual fees for particular public utility shall be amount to the amount of the product of commissioner's current assessment and the public's revenue ratio the revenue ratio of a public utility shall be equal to its gross operating revenue divided by the territorial gross operating revenue the executive director of the commission shall prior to september 1st of each year calculate each public utilities fees under this section and after approval by the commission shall notify each public utility of the amount due the commission shall prior to august first of each year submit a report to the committee on finance of the legislature detailing
- 0:56:19 the total amount of appropriations needed by the commission for the following fiscal year we don't have any issue and i believe the commission does not have any issue pc does not have issue as to how the statute is written the issue comes on what we call reading is fundamental and that's where we differ on the interpretation of this of the statute let us now turn is now as a team apply the statute that i just read to our facts and issue in an attempt to resolve this matter as a team today I direct the Commission to the two Charts previously submitted by the Baden Islands with Monument. I also ask for the Charts to be published, Chair.
- 0:57:16 Do we have the ability to do that, Ms. Scott? Yes. Which one would you like to share first? I would like to share the error. Okay. Public Service Commission annual fees calculation error. Mr. Chair, can you ask a testifier to speak up a little louder? Thank you. I think she heard you.
- 0:57:56 Do you want to say correct it or the error? The error. The error. The error. The error. I ask this Commission to take a look at the chart that the Waste Management Authority took the liberty to try to make it into something tangible that will help us both to reach an agreement. So this is a statute and it's broken down into sections. So the first section talks about PSC annual fees. How do you get PSC annual fees? The PSC annual fees, that's the first box, PSC annual fees. How do we get to that? According to the statute, we must first use PSC's total current year assessment and we multiply that with Virgin Island waste management revenue ratio. How do we obtain the revenue ratio? The revenue ratio of waste management is obtained through. Mr. Chair, I beg your indulgence. Yes, Commissioner what else um i i see that there's um a chart up on the screen but i i can't follow because i don't know if she's the attorney is going from top to bottom or i i don't understand what you know what's
- 0:59:45 so i'm starting from the top the first box says psc annual fees you could start from the bottom too we come to the same results but i'm going to start from the top because that's the annual fee how are we supposed to calculate the annual fees for statue excuse me this is commissioner laura nickel sams i don't think we're able to see the bottom of the chart on the screen that's correct seems like there's something missing on the bottom of the chart okay maybe if there's a way to turn turn that document sideways then we can see the full charts all at once when she gets here she'll still not seeing everything on the bottom thank you we're going back to the talk we are talking about the annual fees how do we collect the annual fees by statute psc's total current year assessment that's the second box on the same line you multiply that with waste management's ratio revenue ratio how do we obtain the revenue ratio from waste management we take waste management's gross operating revenue and we divide it with psc's territorial gross operating revenue that means every agency's gross is combined by psc and they divide that with waste management's operating revenue now here is the biggest issue waste management intern where how do we obtain the gross operating revenue that's the orange box how do we get that that's that's the main that's a big big question we have to answer today gross operating revenue of any agency or any company
- 1:01:41 is the past statute the virgin island was managed inter-territorial regulated operations that means the price and johns and thomas and water island combined whatever fees waste management obtains from solid waste from electronic waste from wastewater we combine that and that's what PSC regulates that's where PSC helps us end of the story the problem is PSC has taken the amount that says at the bottom with a big cross but Ireland's appropriation special allocation from government in this case it's about 40 million 40 million 741 292 and 73 cents and decided that money that was donated to waste management by government because we don't make any money to include it and after see waste management being the 40 million i wonder whether this decision is being made by people who live in this community we go to chat number two yes for publication this is the one that says correct it your current thank you

- 1:03:51 thank you so this second chat is an abiding islands with management attempt to create a chat that will probably guide this commission into making the correct decision and in this chat i'm considering this as gps you can only get the information you put in if you put information to go to fortuna from the airport you're not going to be heading west you're gonna you're gonna be heading west you're not gonna be heading east if you put information to go to red hook you're not going to be heading west you're going to be heading east because i can't hear this that's a discussion taking place outside of the building to the best of our understanding um i think ms reynolds went to try and tell them to keep the tone down so we just have to bear with it thank you so going back to this gps whatever information psc puts in in this gps is what psc gets you put in the wrong information you're going to get the wrong the the wrong information the wrong directions so here we go annual fees from waste management are collected through current year assessment divide multiplied by waste management's revenue ratio how do you obtain a revenue ratio revenue ratio is obtained by taking with management gross operating revenue dividing it with commissioner psc's uh gross operating revenue and then you take the fees from waste management that's what gives you the voice of everything so you see i drew a a line to show that whatever comes from government as appropriation of special funds cannot be utilized and you can't you can change the label on it you can do whatever you want but that that is not
- 1:05:43 permitted by the statute so i'm hoping this this explanation will get to a to a team decision and i submit to you today ladies and gentlemen that the 207 psc has since 207 psc has had the wrong feedback on the gps formula and with the wrong information has been stuck at the same wrong destination and i tell the commission today that one plus one which is the the previous chart equals 11. that's the psc calculation according to the first chart they are adding up is showing one plus one equals 11. however i submit to you today this chart from waste management shows one plus one equals two we also know the sun does not rise from the west and sets on to the east and that the apples can never be oranges again if you're heading to the airport i'm using st thomas directions because i'm not familiar with st croix i know if you're heading to fortuna from the airport you head west if you're heading toward we head east that's what commission needs to do today under the same statute the court has provided and i'm sure we have more than two legal councils in this team has provided us a formula of how to do statute interpretation and i'm sure all court councils will agree with me who work for the government in a statute interpretation and review the legal system is guided by fundamental principles that when the language of a statute is clear unambiguous
- 1:07:40 on its face we must read and apply the plain language of the statute as its best reflection of the legislative intent why would the legislature give us funds or the government give us funds with the intention of allowing psc to come back and take the funds from us and decide those are fees they're used in regulations you pay you pay bills with them you pay vendors well it becomes operational is part of your uh regulated operations it makes no sense and that's what you have to do you have to look at the statute on its face legislature had no any other intent and therefore we look at the statute interpretation has to be is clear and unambiguous the plain meaning of the statute can only be controverted by showing of a clear contrary legislative intent I ask PSC to tell us today what are the intent did the legislature have in giving us the appropriations.
- 1:08:58 Explain to this team the plain meaning of the statute can only be contributed by showing of clear contrary legislative intent. what would be i'm going to let the acting or the interim cfo explain how it's got in course we have a bill pending before the legislature this is after 20 years that psc should have correct corrected this the legislature is concerned about psc coming after us can i start sharing the chart now yes ma'am no please leave it up okay psc has no showing of contrary legislative intent against that section 30 title 30 section 25 that dimosman gross operating revenues includes revenues obtained from government any action taken by government agencies without law or through misconstruction of the statutory authority under which the action is taken is arbitrary and capricious As an administrative arm of the government of the Virgin Islands, all PSC's assessment and calculations in the last 20 years for waste management have been flawed because the actions were taken without any authority of the law or upon the misconstruction of the statutory authority under which its action were taken. Now I go back to PSC's response to waste management's motion for um petition for reconsideration in psc's response to waste management petition for reconsideration the opposing council argues that psc was aware of the waste management's annual assessment since its creation furthermore prior to in a prior petition hearings via was managed petition for reconstruction opposing council admitted that not only was psc aware of the potential funding problems but the PSC had a quote had and I quote alerted the legislature to the issue of the assessment of the authority as a potentially being problematic because it's a government entity and would not be fully funded through fees and charges but that would get its revenue from sources including legislative appropriation PSC justification for its continued stripping away of waste management appropriation and funding is that, and I quote from the opposing council's undated response to this waste management petition,

- 1:11:39 no clear legislative policy has been enacted that overrides the statutory requirements of title 30. to 30. This lack of action since 2004 by the legislature should have been a clear signal to PSC that the statute is clear on its face. The legislative intent was not to give the funds to waste management so that waste management can hand it over to PSC. The legislature has a duty to hand over any appropriation to PSC, not the other way. We are not given things to hand over to other agencies in fact under title 30 section 35d it provides that the commission shall prior to august of first of each year submit a report to the committee on finance of the legislature detailing the total amount of appropriation needed by the commission so psc has the authority by statute to report to the file committee on finance how much appropriation they need. One has to wonder whether PSC has ever submitted a report of the total amount of the appropriation they needed and if yes whether that appropriation should be considered for all the arguments and purpose as obtained from PSC's regulated activities. In a previous order by PSC to waste management The order attempted to further justify its action and the violation of the plain reading of the statute by claiming that the parties PSC and waste management met in the VI with the VI former director and her staff and agreed that the revenue received through the appropriation process to fund the regulated operations of the authority would be included in the annual. assessment population. This statement should be shocking to any reasonable person and to this commission. Any such meetings or agreements against the VI code and public policy is not only null and void but unlawful and unenforceable. Furthermore, any such action by PSC would
- 1:14:02 be in bad faith unquestionable and manipulative move to take what was given to assist the agency in violation of the existing law and plain reading of the statute it is also a breach of commissioners commission's fiduciary duty to utility agencies while ignoring title 30 section 25a the opposing council in his response states that waste management authority cites no authority for accepting the appropriations should not be excluded from a from operational revenue what more authority is needed i ask this commission is the virgin island code not sufficient that is plain and clear step by step gps of the metal to calculate the fees Additionally, in his response, Council then chooses to engage, for whatever reason, on the definition of non-operating revenue, as opposed to the term of the statute, operating revenue. In so doing, he attempts to define the non-operating revenue. then proceeds to quote as his authority the business development bank of canada the best belief as to why out of 50 states and its territory along with the black law dictionary council turned to a canadian business development bank for guidance and determination well canada when canadian law and guidance may be council's preference canada is not yet part of federal jurisdiction and the canadian law and legal opinions have no standing and are invalid in the united states of america and the u.s western islands with reference to the ear marking of various appropriation psc admits that i could nearly all the identified funds were appropriated to pay the operating expenses of the authority. This statement is absolutely correct and the key
- 1:16:23 word is pay. The funds were earmarked by government to pay waste management bills in wastewater and solid waste activities. They are regulated activities but the money paying the bills that don't make the money originate from the activities. We perform the activities but we have no money to pay so we get the money to pay for them. For funds per statute were not derived from inter-territorial revenue. The idea and perception that appropriations to pay operation expenses implies that appropriation become operating revenue is unfathomable incredible quite frankly distorted and incapable of being fully explored or understood just to be clear west management has never argued that this body and the psc commission has no full operation of the virgin islands authority virgin island waste management that we have never argued that additionally although psc claims that it's entire funded funded but it's entirely funded by assessment title 30 again provides where this commission should submit so uh what whatever funds they need from to the legislature in conclusion the virgin island waste management authority wishes to remind the commission that in accordance to title 29 section 496 the vi waste management is a non-profit public body and autonomous autonomous instrument instrumentality of the virgin islands government whose purpose is to provide environmentally sound management for the collection and disposal of solid
- 1:18:12 waste including operations closure of the landfills and wastewater collection transport treatment and disposal of the of the territory pursuant to title 30 section b section title 30 vic section 2 public policy behind the creation of this management was fundamentally based on the need to provide services facilities with appropriate public health and reasonably safe adequate services to the entire virgin islands community that since its inception as public utility agency vi waste management was never geared to be a money or a revenue generating agency although the agency has started some incredible measures through the uh interim executive director for some cost-saving measures the waste management continues to have financial struggles as there is not much income derived from the collection and disposal of solid waste and wastewater that as a consequence any errors by PSC in their calculation of annual fees it adds an additional and a burden for the waste management and violates the public policies of the agency's formation and the legislative intent of any funding from the Virgin Islands government to assist in the collection of waste in closing we thank the commission for the hearing today for giving an opportunity to make this argument and we ask we request the commission that to respectively consider the following issues as we make their decision one plus one equals two one plus one does not equal

eleven that the sun rises from the east and not from the west

- 1:20:10 that that one cannot look for a golden window in a house that's made the foundation of sand one cannot look for a golden window in a house with a foundation of sand that when you give a leopard chicken the next time it's going to come for your goats and that you do that that the tiger does not show about its strength, that its delivery power is shown through the skeletons of antelopes. You know that a tiger was around when you see the skeletons.
- 1:20:49 This commission cannot ignore its power and the possibility of delivering our waste management resources and should follow its mandate to protect us from creating more skeletons of unpaid vendors finally i use these things because i have heard a lot of um west uh west caribbean sayings and i think my favorite one is where injustice is used to justify when they talk about goldhead is not a shiphead uh i'm trying to use the ones that would be appropriate that are not going to be putting us in jeopardy do not use that time please try to to see that psc must resume its fiduciary duties as a shepherd of the psc uh of uh virgin islands um agencies as a public servant mr chair and co-councils we have a duty to call upon our legislature and the body of the legislature to change and rectify the law where it's not clean or where it's necessary to make changes psc and waste management has a duty to work together to provide this community with the sweeping cards atm cards to drop off their garbage as public servants we have a duty and a mandate not to leave a legacy of collapsed and collapsing public institution and utility agencies thank you chair thank you council i shall endeavor to be brief
- 1:22:35 As attorney who who noted, we alerted the legislation to the legislature to this issue before the waste management authority was created legislature has subsequently been alerted to this issue, but every budget year that has occurred. They were alerted to this in the budgets of the waste management authority, which from their creation until. The commission, until 2021 at least, included funds to pay this assessment.
- 1:23:10 They are alerted through the submissions by the Public Services Commission in its budget to every year that it was assessing the Waste Management Authority and the specific amount that it had been assessing. It is true that the Commission has never sought an appropriation until current year. The only reason we sought an appropriation was because waste management had failed to pay their assessments as had while. The Commission has been, and is historically, as are all state commissions, self-funding through assessments on the regulated entities. if anything the legislature has acted with some degree of clarity by enacting act 8471 which made the waste management authority no longer subject to only fees setting by the commission but placed it entirely within the regulatory jurisdiction all of the regulatory all of the bodies regulated by the commission are charged with paying their annual assessments the only one that has failed multiple years to do so is the waste management authority the suggestion that the appropriations are donations to the waste management authority is blatantly false the appropriations are to pay the operating expenses when operating expenses are paid that is revenue to the entity they have provided no authority for a assertion that paying operating expenses changes that from revenue and the commission is required to do its assessments on operating revenues there is no authority cited that those are those expenses the revenue required to pay those expenses magically became a grant or a donation this has been a process that's been in place for at this point nearly 20 years there has never been anything by the legislature to indicate that process was incorrect there's never been anything from any court and there's been no authority cited i will note that on the chart above
- 1:25:16 Waste management includes what it considers its regulated operation revenue. One of the revenues it is authorized to collect is the wastewater user fee. A wastewater user fee, which is collected through the property taxes, alone should produce the amount that's shown there, and it's not shown on their chart. Their chart contains false information, and their argument fails to meet the standards required to change a 20-year process. The assessment should stand and all rest. Any questions?
- 1:26:07 Is he on? yes um attorney let me ask you what um what legal reference have you used for to come up with your definition of gross operating revenue what is the legal reference you're using for that definition language comes directly from the statute it doesn't come from the statute the statute doesn't have a definition of gross operating about it it does we can refer to it can you give me the exact the definition is there as used into this section gross operating revenue means the gross operating revenue of a public utility derived from inter-territorial regulated operations what's the citation title 30 vic 25 a small a and and what's your definition of gross the word gross gross operating revenue there's not a collection of all could you ask that again sir yes it says gross operating revenue what is your definition of the word gross gross operating revenue i'd have to refer to the black law dictionary which is not in front of me but i'll let the cfo and the interim uh executive director respond to that we're not referring to anybody else and we're not taking testimonies so council either you're going to answer the question or there's no answer well i would say the total gross
- 1:28:03 does not entail all operating revenues correct so wouldn't it include the the operating revenues appropriated by the legislature operating revenue to pay bills no the budget the budget document clearly states that the the funds appropriated to the waste management authority for operating expenses so wouldn't growth operating extensions include those

revenues sir if you're given money to go buy bread no no no no give me give me some good definitely i don't want to hear about bread and gis please you ask the question let's talk about the methods that are before us correct as a legal council my position is to provide examples as part of my legal argument no more no further questions mr chairman thank you um commissioner sands i have no questions thank you mr raymond williams um i'd like to first start by thanking uh the waste management legal council for the lessons that she so um put before us but um to the legal council i appreciate um what your position may be um as a member of this um organization and as a member of the commission for for I would say cumulatively about 15 or so years.

- 1:30:00 This is the first time that I've ever heard such a argument brought before the commission in defense of not having to pay what is prescribed by law, in our judgment, the fees to operate this organization. um i would also profit that if your assertion of your claim if your points are to be held to be valid i think the pse would basically cease to exist based on from an operational from a revenue perspective because i guess the wapa and all the other utilities that we regulate can bring the same argument so i i really i thank you for the lesson but i must say that i absolutely do not agree to the basis from which you are certain thank you thank you attorney for the presentation um you you are aware that this is the second petition for reconsideration that the waste management authority has made last year's petition was um was denied by the commission on its merits um is your i understand your argument i appreciate that you've made it today it would not appear to be a different argument than was made in the last petition for reconsideration is is there something that i've missed is this essentially the the same argument that we continue to have about the definition of operating revenue same same
- 1:31:45 argument sir how long have you been with the uh waste management authority i started in 2022 but i do have to give the credits of this discovery of the error to the former executive director i'd like to give him credit for something as well because this discussion started largely out of his first assertion, which predates your involvement with the Waste Management Authority, that the Public Services Commission had no authority over the waste management authority. So that predates you and you can be forgiven for thinking otherwise. But that's where this discussion started some three, three and a half years ago with Director Merritt. When we We got past that point and established our regulatory authority over the waste management authority. He then pivoted and essentially went to, well, if you're my boss, then you're just making mistakes with respect to how I have to share my room.
- 1:32:45 So that's how this is kind of come full circle. I'm going to make a motion, chair, if you will, if you're prepared for it. Okay, I'm sorry. Go ahead. You file a petition to write a motion for reconsideration. What are the legal standard or basis for court or, in this case, the commission to grant your petition for reconsideration? The one before you or the one that was before the court?
- 1:33:17 What are the factors that we need to consider for a motion to reconsider? think it's pure and simple the the formula and the intent that that's not it's not a formula the form basis that the court uses as to whether or not a petitioner has met the standard for reconsideration my next question was going to be which one of those four bases are you arguing so i didn't understand your question the four pieces i don't really have it in front of my head i have to refer back to that if i have any i guess i have to look at the statue but it has been you into being anymore there's no new intervening no something but there's a new facts no new funds but this would be okay so then what is your basis for the petition for reconsideration that's that's the first question we need to answer is whether that you file a legitimate basis for us to reconsider i would consider this to be new facts that came into uh revelation towards management and i will respectfully disagree there are no new facts here based on the comments or the assie just gave to vice chairman views this question and of course have clearly said that a motion to reconsider is not an opportunity for you to re-argue prior arguments so if there's nothing new here there's no basis for us to reconsider the commission's order would you agree i don't agree i think this denial would take me to court which i was already but
- 1:35:11 with my miss with the deadline that's why i'm here because if you denied i'm gonna head to court and that's fine and that's you right right but but you've also argued that the statute is clear correct yes the statute is so clear why we have in this disagreement because of the way PSC chooses to read the statute for 20 years and and you would agree with me that it is the PSC's authority to interpret its statute correct although okay but you disagree with the way we've interpreted the statute completely disagree with the interpretation and therefore it says you disagree that the only place for you to go to get is resolved with the court correct correct all right however you could make it easier for yourselves and and give us time to do the people's duties i understand i understand your position but you also argue and i think somebody has touched on this that when the legislature gave the waste management the appropriation it was not intended to pay the annual assessment for the psc correct for your harman when the legislature gives you an appropriation do you pay your weapon utility bills out of that not really we don't have the money sorry not no no i didn't understand your response i said we don't we don't have enough appropriation to pay all our vendors and our bills okay but would a walk of bill be

considered part of your bills that you should pay to the vendors yes yes so what is the difference between the walker bill that you should pay and the psc assessment that you're claiming you should not pay okay i'll make it this very very clear maybe you'll be able to reach out what says us you regulate you get paid you don't regulate you don't

1:37:01 get paid you didn't regulate anything for us we didn't make any income whatever you we have is what you're going to take so to take 40 million coming from the legislature and decide the part of what you helped us make would be distorted but we regulate the base management authority yes the fees that come from wastewater so waste is what you should add up and attorney boyd is correct there is some money missing because we have not received everything from uh always water free from lieutenant governor's office it goes to a special fund but whatever they put in there is what we get it doesn't come directly to us which i think it should but that's another argument but we don't have that money right now and so whatever we make is what you're gonna get so when you collect the wastewater so free you're gonna give us more money you're gonna use that to calculate your fees but you cannot take what is coming from the legislature and the governor to take to come around and take it from us it's just like taking your brother's or younger brother's lunch money you are sister agency you're not whopper and to the extent that this matter has been pending at least for the last two years that you've been with the agency has waste management sought uh any clarification from the legislature yeah in fact there's a bill pending where the legislator does not even understand what peace has been doing for 20 years okay they're in shock there's the bill pending but the legislature has not acted to amend this any of the statute then they will hold on hold on you're not answering my question so as we sit in today the legislature hasn't taken any action to amend any of the statute that governs this issue am i correct no the statute remains the same title 30. no all right i'll listen for

1:38:52 i move that the petition for reconsideration be denied for lack of span 12 lack of basis and on its merits so second uh there's a motion has been seconded um to deny the petition for reconsideration is there any Any discussion? If you haven't heard of none, roll call.

1:39:27 Roll call. Clement McGrath. Yes. Yes. Lauren Nichols-Sams. Lauren Nichols-Sams, yes. Raymond Williams. Yes. David Hughes. Yes. Pedro Williams. Yes. Mr. Chair, we have five voting yes. The motion is carried unanimously. unanimously all right thank you thank you counselors for your presentation the next move to waste management matters to which issue who speaks today so we have no further business maybe yes yes mr griffith is insane for his office all right good day everyone can you hear me okay yes sir and um if keith smith could come to the front too he's over our beach water division hold on hold on hold on uh who is that Keith Smith. Keith Smith.

1:40:39 Okay. We're going to swear to witnesses. Who's going to be testifying, both of you? I will be testifying and Mr. Smith will answer and help answer questions because he's over the division. I will swear at the same time. There's your right answer to this one. Do you solemnly affirm that the testimony and the evidence you are about to give is the truth, the whole truth, and nothing but the truth to help you value? Yes.

1:41:11 Thank you. Please state your name and spell it for the court reporter. Okay. Darryl Griffith, CFO and Interim Executive Director. D-A-R-Y-L. Last name Griffith. G-R-I-F-L-I-T-H. Keith Smith, Territory Manager of Wastewater Operations, K-E-I-T-H, S-M-I-T-H.

1:41:42 All right, thank you, gentlemen. All right, Mr. Griffey, you may proceed. Thank you, sir. The Waste Management Authority is crucial in providing wastewater services to approximately 60% of the Virgin Islands, islands 85 000 to 115 000 residents including collection pumping treatment and disposal of wastewater more than 4.5 million gallons of wastewater daily rushes through these those pipes heading toward the wastewater treatment plants on saint croix saint thomas and saint john the collection system consists of both gravity and pressure pipes of various sizes in addition to several pump stations is a testament to the importance of our work the wastewater infrastructure in the territories aged and failing presented significant challenges for the authority the system is becoming increasingly expensive and difficult to operate and maintain daily recently problems have multiplied due to the passing of tropical storm Ernesto the problem is caused by the storm water drainage system being connected to the wastewater system The system is bombarded with excessive grease, rags, and other small debris on a typical day. For example, chopper sewage pumps are designed to manage some level of trash and rags, anything three inches or less, but no pump in the world is designed to handle rock, especially the seven to eight inch or more stones you receive after severe flooding.

1:43:15 The waste management lost six pump stations just days after the storm. three of which are critical stations. On St. Croix, two were lost just hours apart on the same day. The authorities struggled with those stations and cleaned rock and debris from the collection gravity system. In 2024, the authority launched the Wastewater Optimization Program. The program is a practical roadmap for achieving reliability, sustainability, and optimization of wastewater infrastructure.

1:43:49 Fortunately for the territory, When a FEMA assessment was conducted of the territory sewage system after the 2017 hurricanes, it was concluded that repairs could not be done to stabilize the sewage system. FEMA concluded that the

entire system had to be prudently replaced. Starting with St. Croix on October 25th, 2024, FEMA obligated PW 1404 with a net cost of \$1 billion. FEMA will pay 98% of this cost, which is 989 million. And the territory is responsible for the remaining 2%, which is 20.2 million. The authority has aggressively begun procuring the necessary equipment and services in the full months since these points were obligated.

1:44:38 Waste management contracted with engineering design technologies known as DDT to provide professional architectural and engineering design for the LBJ sewer shed. The pump station responsible for most of the sewer leaks in Christianstead. This sewer shed is being redesigned and will be moved from its current location. The authority has also purchased a bypass pump, which should arrive in the territory in mid-March next month to assist with the LBJ system. We are also currently advertising the procurement for the purchase of all sewage pumps on St. Croix. This is broken down into 13 small pump stations and larger ones. You'll see it on the list below. The large pump station being advertised in addition to LBJ's fig tree pump station.

1:45:25 All of these bids are due to the authority by the end of this month, February. The pump arrival time after an order has been placed and payment made will take approximately six months because these pumps must be built. When they arrive, the waste management team will install the pumps at the pump stations. The authority also has an RFP out through the Office of Disaster Recovery, ODR, called Bundle Four, in collaboration with WAMA, Public Works, and the Office of Disaster Recovery. This RFP is for the design and build services for the underground pipes that cover North Central St. Croix. The Waste Management in partnership with ODR is issuing this request for proposals from submitters capable of entering into an architectural and engineering and construction agreement to provide progressive design, build services for the assessment, architectural and engineering designs and construction of the Monbijou, Barron Spot, Humbug One and Two, and Fig Tree. The waste management and partnership of ODR and a successful submitter shall enter into a mutually binding full service agreement. The sanitary sewer collection systems included in this RFP encompass the north central portion of the island to the south central area of the island.

1:46:50 It comprises over 171,000 linear feet of sewer lines, ranging from four to 24 inches in diameter, approximately 710 manholes, 1,800 surface laterals, and 25,000 linear feet of sewer force main. Their authority is working on bundle six with ODR to encompass the rest of St. Croix. on the boardwalk in st croix waste management installed a 10 inch pvc pipe from a manhole located at a restaurant site to pipe installed under the christian stead boardwalk this leaking pipe created a hazard to the environment and public health the authority installed a plug in the inlet to prevent sewage waste water from flowing into the sea the authorities currently working to devise a permanent solution to this problem which is being done by our engineers as we speak next we will discuss st thomas on january 17th of this year 2025 fema obligated pw 100216 with a next net cost of 2.1 billion dollars and this was done three weeks ago fema will pay 98 of this cost which is 2.1 billion dollars 2.14 billion and the territory is responsible for the remaining two percent which is 43.7 million the authority has already started at creating the scope of work for the rfp to purchase the pumps for the st thomas pump stations and the scope for the repair and rebuild of the pump stations as well below is a list of the st thomas pump stations that you can take a look at furthermore concerning the current emergency with the cancrank pump station the authority purchased three new pumps and fittings and delivery and installation is expected in early march 2025 which is next month the authority is

1:48:42 also working with odr on bundle 5 for st thomas to advertise the rp for the underground work st john has also been approved for fema wastewater funds fema obligated pw 100219 and on january 17 2025 three weeks ago for a net cost of 83 million dollars with a federal share of 98 which is 81 million dollars that feeble will pay and the territory is responsible for the remaining two percent which is 1.6 million the pump stations pump wastewater treatment plants and the underground piping will also be worked on in st john below is the list of the pump stations for for the psc to review in the years to come the territory sewer infrastructure should finally see the promise of real change still we should be aware that this type of infrastructure change is complex and involved because it requires enormous amounts of planning engineering and construction and it has many moving parts it takes time to build better and as we can see the system is not waiting the question is how will we maintain the newly built system when we get all this done The answer is 100% allocation of the sewer funds to the Waste Management Authority. The authority is currently capped at \$1 million for these funds, which the board was speaking about earlier, when over \$2 million was generated last year. And with the additional properties added to the system that was done this year by the Waste Management Authority, the amount collected will exceed \$4 million. The authority needs these funds to maintain the sewer system now and in the future. the senate has allocated those funds to other agencies this concludes my testimony my team and i remain available to address any questions that the psc may have thank you so much for the time

1:50:33 all right thank you mr griffin um commissioner mcgras any questions yes mr chairman um i don't have any questions i but i do want to congratulate the um mr griffith um it's a mammoth job you have ahead of you and um you know a lot of

new projects coming online so i wish you luck um we need it desperately so good luck with your work thank you sir
Commissioner Samms?

- 1:51:13 Hi, this is Commissioner Laura Nichols-Sams. I have no comments, and I also want to thank you for your testimony, Director Griffin. Thank you. Mr. Raymond Williams? Yeah, good afternoon, Director. Did you, did I hear a timeline for the project and the phases of the project, where are you planning to start or are you still in the planning phases? We've started projects on St. Croix because it was obligated in October of 2024, which was a few months ago. So for St. Croix, we currently have advertising the pumps for all the pumps needed for the island of St. Croix. We currently have a company called EDT engaged in LBJ to move LBJ and to rebuild it. And we currently have an advertisement now with the Office of Disaster Recovery for Bundle 4 to do all of the underground work for the eastern side of St. Croix. And we are currently working on Bundle 6 with ODR right now, too, as well, to put together the scope of work for the remaining portion of St. Croix.
- 1:52:41 and in st thomas we were obligated just three weeks ago in january so we're doing this exact same process so we should have that completed um before the end of february to to put out the advertisement for the pump stations for st thomas as well and we've already purchased some pumps for st thomas outside of this this food replacement money for can crime which was in desperate need repair those have been ordered and shipped and they should be arriving um we hope by the end of february but we're we're estimating by um mid-march at the latest i i i remember seeing recently um a project i i'm thinking it comes i don't know if it starts at lbj uh or where it originates but it's um what i can describe as a what looked like a reel of a collapsible type of thing that ran on centerline road down through um humbug and catcher's rest i want to believe headed back towards events aside um what project is that and is that similar to what we can expect in terms of the new systems i am i'm gonna um tag over to keith smith to see if he's familiar with that project that you're discussing because the one we're currently doing now the only other one would be the the there's the christian step project that that's that's being wrapped up now um but this this new psc funded will encompass all of that um mr smith are you familiar to the project that um that mr williams is um discussing yes um i think that's the one engineer is working on
- 1:54:45 that alex is working on that's the across the whole project i think he's referring to I didn't hear you. I believe that's a Cross-Lagoon project you're referring to. Probably. Yeah, but my interest is in what the technology that's being used, the type of role of material. Can you explain that more so that everyone can have a better understanding i brought that yeah that that technology is so aligned sleeving what happened is uh usually because most of the place that we have in the ground when we have all played in the ground we have um car cyan in the ground and stuff like that so that that that technology is a pvc liner that you you actually pull it into the into the solar line and expand it and it costs a pvc coating cause a pvc coating uh into the pipe and that's what that's what that project was about it's called sleeving it's a it's cheaper than digging up the entire road and replacing the entire bike so but that does it at some point replace the the um the original one of the things that drawback is to make the pipe a little smaller than and make the pipe smaller because of the because of course it costs like a one inch pvc thickness inside of the of the of the pipe so it's like you have a new pipe in the ground but doing putting replacement um many areas will be taking that pipe completely out of the ground that's the plan for replacement actually replacing um all the cast iron and the clay pipe and stuff like that we'll be replacing all that stuff and put that in pvc pipe okay and then i i noticed that a lot of the the um connected manholes um the work has been done but i continue to see
- 1:56:38 sewage still leaking and um some what i what i suspect is attaching um around the manholes that clearly aren't working either so who manages who um looks at that work that's that's always management authority and that's that's the whole point of prudent replacement is because what we've been doing is patchwork and that's what fema came in and saw that you cannot patchwork this system the system has to be 100 replaced so that's why this prudent replacement was um approved because when female went in they saw what waste management knew is that the system is over half a century old and it simply cannot be stuck back together it has to be replaced so so that you're going to continue seeing leaks sprout up until we complete prudent replacement and the first step has already begun thankfully for st croix where before the year end we'll we'll see a large number of the pumps replaced so you know then the the second part that's going to be scary after replace those those pumps is that you're going to have all pipes getting um and mr smith has assured me that he'll be able to regulate the speed that the new pumps will generate until we replace them but my my fingers are crossed um to for all of us to make sure that we can regulate the speed enough on new pumps to make sure that we don't see a increase in leaks but uh but But crude oil replacement is the only way to stop these leaks that we currently have across the territory. And I want to say this.
- 1:58:22 When you're talking about a soil collection system, you have basically three types of systems. You have a closed system where you have just soil, no INI, what we call it, infiltration from stormwater. You have a combined system which is actually designed not only for collection and treatment for soil water. And then you have a kind of open system which we

have right now we experience an open system which your system is not designed for stormwater. The trash and the rocks and garbage that we receive right now, so what happened with us is that we are receiving seven inch, eight inch stones into our pumps and destroyed our pumps and unfortunately.

1:59:00 I've only been with the utility for a year and four months, but what Inesta did is actually highlight just how vulnerable we are when it comes to storm water and severe storms, right? So we plan is to put mechanisms in place to what we call automatic bar screens to protect our pump stations, we need to protect them. pumps are very expensive just the three pumps for for lbj gonna cost me close to 800 000 dollars just to buy three pumps for lbj the pumps for cancro is around 400 000 for three pumps for cancro and the thing about it is we can't continue to every time we have a storm replace pumps so the new designs will have um new technology modern technology automatic screening that would actually pull that stuff out because because we're not gonna be able to change the entire system overnight so we have to put mechanisms in place right now to protect our system in case we have another severe storm thank you so um relative to in terms of project coming if you're in christian what is known as a hotel um on the what is this the the southern side of the hillside in Krishnasad, coming all the way down through town, heading back towards the ocean by Holga Dansk. What is the plan for that area? Because I think everyone is, it's an extremely vexing situation, you know, and the road, the passage of that road being next to our hotel and those businesses, what is the plan specifically to that area? For that area, the plan is the, remember I mentioned LBJ that we're currently working with EDT to move the LBJ pump station.

2:00:55 So that LBJ pump station is what causes the majority of those leaks in Christian Stead. So I spoke, I was just on the phone with the housing authority today, and we're gonna go to their board to get permission to use their property that they're no longer gonna be using. be using. And we're going to move LBJ over there. And we've already purchased another bypass pump that'll come to address that situation as we do that, the big move. But we've already purchased another bypass pump to install an LBJ to help remedy that situation. So that's currently being worked on right now for the lbj christians for the christian stead area um actively and so is there have you done any i had any discussions with public works relative to once you have the bicycle place and um the possible relocation to repair or replace those roads heading from the seaplane east and coming from uh i think from the north to south um down towards our last area the great thing about the replacement is all the funds for um the road replacement that was that would have been assigned to waste management or to to wapa most of the funds are going to be combined and given to public work so that they can do the repayment of all the areas that we're going to do work on and that's after you install a bypass and also re-reli-reli compensation that's that's after we do the underground work got you okay thank you mr chair thank you

2:02:49 commissioner hughes thank you director griffith for the presentation i would encourage both you and our staff to uh to have this posted as quickly as possible on our respective websites it's a very nice update that i think is easily understood and uh it would be useful for people um director what is the name of this task force that has been put together for uh to manage the design and engineering of this project the joint task force i don't know that task force actually has a name i just refer to basically the office of disaster recovery and by their bundle numbers uh unfortunately i've been doing it with them for a while so i i have the button numbers memorized but i guess that's not a prudent way to do that i i think i'll go back to that with that suggestion that we we named this task force then and i'm going to refer to it as the odr task force for prudent replacement um i see director uh knight here in the audience i'm just going to ask uh does this did you also receive i guess a prudent replacement grant for water the water system yes both think right same time okay so we've got some large projects queued up for to involve both both of the agencies um is there a it's not going to be called an incident commander but it's who leads the odr task force for prudent replacement is there a leader or how does it work for replacement is being handled through the super project management office i assume that's what you're alluding to um the they have a private consultant and several staff engineers that are overseeing a private consultant that is managing the super project management office great so as i previously mentioned i think it would be an efficient way of the public services commission to obtain updates that we place a we engage a consultant to have full observation or observer status to this task force i'm going to make a motion to that effect shortly um do either one of you have any objection to to placing an observer for the psc in those

2:05:04 proceedings that's really a conversation with the office of disaster recovery so i'd encourage i'm going to ask you guys first and then we'll ask odr um do you do you care would you is that on your dime or my dime let's just leave that question aside for a moment does that make a difference does make a difference i i already have my own consultants that i'm paying to participate in this process okay well we don't so um i'll just take that as a maybe or definite maybe from you director knight how about you director griffith any objection to placing a uh a psc person in the room for the at least the design and engineering phases i have no objection but i have no dimes so um but no objection at all okay great well i'll come back to that at the appropriate time um how does the money flow from a fema project proof replacement project do we have to fund the project up front or or is it just a uh fema paid directly against milestones it's how how it's done is that um when the invoices are received we send it through VITEMA which then Ernst & Young and ODR team reviews and

once that is approved that's sent to FEMA for payment and then those funds are deposited into um waste management or any other entities account we pay the um the vendor okay so you don't have to come up with four billion dollars of cash flow here over the next four or five years it would be impossible that that was kind of where i was going with that thank you um good so thank you chair i have no other questions but i will have a motion at the conclusion of this this agenda item but following up on that question based on my calculation and your report the territory is required to come up with 66

2:07:06 million dollars more or less correct for the yes sir where is that money coming from have we identified the source of our 66 million dollar contribution currently the source of their contributions are cdbg dr and cdbg mid from that's being conducted by the housing finance authority but do you have a commitment to an obligation of those funds or is this a wish list going forward it's it's uh the the agency housing finance that has obligated um a little bit over 100 million dollars i think i i don't know the exact amount so i shouldn't i shouldn't guess um but i know it's over 100 million dollars to um to match in funds for for fema grants so as we use the money we immediately send the the request as we received invoices i should say we immediately send a request to housing finance authority for them to pay i i'm not sure i understand that that response it i might understand that you're hoping to get the money from community block grant that that's the first um point of uh for the money because that's where a significant portion of those funds are allocated for but you don't have a commitment from them at this point no you only get a you only get a firm commitment when you actually um receive the invoice and then you send the funds to them so what you do is initially once you start the project you send the entire project to them and say this is the the cost of the project this is a two percent of the project that we'll need from you and then they they give you an approval for that and then as you get the invoices, you send those to them. What the ODR through the PSC has done

2:09:06 is that it now allows for the FEMA funds to pay 100% of the invoice and leaves the last 2% to be paid so you don't have to, you no longer have to split up each invoice into 98% and two. You can simply take the uh one invoice and pay all the two percent and fema will pay all the remaining 98 does that make sense or that's not clear enough of a explanation and i'll try it it's not it's not clear to me but let me ask another question do you have to show fema that you have your two percent before fema will expand or send you any money or will they do that before you've even shown them your two percent um you do not have to show fema the two percent for them to start paying the 98 no sir all right let me start subject and they report you in page um on page four what is the current emergency with the cancline pump station can you read that again so i couldn't hear unfortunately on page four of your report what is the current emergency with the cancline pump station oh if you don't mind i'll let mr keith smith who was intimately involved with that answer that question we lost all three of the homes pumps so uh concrete pump station it carries three pumps we don't have any working pump in concrete pump station at the moment what we're using right now at concrete is in emergency diesel backup pump on the outside of the station so we have

2:10:55 actually have purchased and have already been shipped three brand new pumps for the concrete one station so so what is the benefit of those pump workers i mean what happens if those pumps are not working is a critical conversation i mean we can't get sewage out of the city without concrete conversation every other station in the city pumps the concrete and then concrete pumps to the wastewater treatment plant behind the airport which is red point so actually we have to have concrete running all the time and that's why right now we're running up over time because we have the pump that we have using right now that pump outside diesel pump we have guys stationed watching it 24 7 so they can continue pumping so we go to the scene okay and your position with the agency is what um i'm a telephone manager of resource operations um and this will be a year i think five months since i've started so you're an engineer yes but before i started i did consulting work um have 30 years experience in the water wastewater and i did consulting work for reliability sustainability and modernization of um throughout the caribbean and in africa and different places um to try to train staff and design infrastructure and modernize and optimize so what is the authority staffing level to manage the sewage system and how many engineers and specifically how many engineers do you have on staff my well i'm in operations i'm on the operations end we have we actually have an engineering division i mean i'm the head of the operations division all right so i'm the only engineer in the operations division How many engineers are there in the engineering division? I think we have five engineers, four or five engineers in engineering division. Is that territory-wide? Territory-wide, yes. And we are advertising for more. Is that correct, Mr. Griffin? Yeah, that's correct. I'm sorry? That's correct. but for my staffing my staff and i think i'm at 67 percent and and when these projects are up and running what do you imagine your staffing level what's the desired goal uh on the project side because of the odr will be managing the foot replacement most of the program placement and then we might we must add a couple more engineers to our staff to represent us at oer so you only need two more engineers uh for the equipment replacement we we need engineers on the operational side how much would you need all right i had a question about in the report again on page two

- 2:13:58 you said uh this is a breakdown into 13 small pump station and large ones you gave me a breakdown of the small pump station but not the large ones how many large ones do we have okay so we have three large pump stations in the same course we have the lagoon street which is in freddick step we have our fig tree which is just behind um pest soil and we have lbj St. 4 is where we have small pump station and we have the large pump stations.
- 2:14:31 St. Thomas is a little different because we have what we call the extra small pump station, small pump station, medium pump station, and the large pump station which is concrete. That's going to be my next question because you didn't break that out for the St. Thomas pump station. They didn't even say whether they were large, small or medium size or whatever. we have four different sizes the plan for putting replacement is to standardize the problem we have right now which is make us admittance like we have 31 pump stations territory wide no two pump stations we have uh i think we have 11 and st thomas i think four on st john and uh the rest of the is at the same point down on water island no no water we don't have a salt infrastructure all right thank you sir appreciate your presentation i do mr chairman mr chairman may i ask just one question may i ask just one question of legal council uh attorney sprain cdbg funds are considered federal funds can federal funds be used as matching funds for federal grants um if you don't mind daryl griffith um interim executive director and cfo i'd like to answer that cdbg dr funds that are only and cdbg mit that are only federal funds that can be used as match none of the others can but uh they're specifically designed to be used as match okay thank you you're welcome all right i have one
- 2:16:17 other question for you mr griffith your servant is born the interim executive director the cfo yes sir are you getting paid for both of those positions Unfortunately, not I'd like to offer the following motion and move the staff be directed to contact the office of disaster recovery and propose the participation of a public services commission consultants in the ODR. ODR, so-named ODR Task Force for Prudent Replacement, and that, assuming a positive response to that query, move to engage or prepare candidates for engagement of that consultant. so the motion is there second second second um question discussion yes um yes commissioner i know i'm when uh commissioner Hughes had a conversation earlier um in terms of payment um i think that we need to address the issue of potential payment and uh cost structure for what that person and a definition for what that person will be doing uh on behalf of the um organization so um i don't know if that's something i want staff to do or something we need to discussion raymond if you'll permit me to address that um my sense is that we should first get through odr and make sure that there are no strident uh objections to our inclusion in this process and address those if they have it i think that once we get that positive response we might ask staff to come back and just simply propose a simple scope duration and cost for this wherein we can then address the payment issue of how we might pay for it um i i don't have any thoughts or ideas on answering those questions prior to actually talking to a consultant and seeing what that might cost um i do envision the engagement to be about six months at a minimum just to get us through the design and engineering phases of each of the three territories territorial islands but i i'd like to first just send staff out to to get the big answer and then have them come back
- 2:19:03 and propose to us what they think a prudent participation might look like no thank you any other questions or comments just including qualifications for potential candidates sure all right roll call roll call commissioner mcgras yes commissioner nicole sams yes commissioner rayman williams yes commissioner hughes yes commissioner williams petro yes mr chair we have five votes in yay the motion is approved unanimously all right thank you um director griffin mr smith for your presentation you're excused thank you sir now to um item number seven on the agenda energy matters and i'll speak on behalf of mr mann from georgetown consulting mr mann is presently australia and it's currently about 3 a.m this time i think the very short summary is that the water liac is connected primarily connected to two major costs one is the electric guy how much the
- 2:20:55 water system has to pay the electric system for the power that's used in operating reverse osmosis plants which do not operate on heat or operate on pressure and electric pumps and the electrically accurate is up for reconsideration next month the other one is the consultants noted that water sales were reported effectively down about 19 percent from the previous year no comment was made in the in the submission as to why sales have dropped so precipitously however water production remained high in fact it increased slightly which indicates that there's a increase in the line losses or losses generally through the water systems over the past year so the recommendation of your consultants was that this matter should be carried forward to your next meeting that the water rate should be held steady until the next meeting and the rate for the water they actually be considered after the electrical act rate is set for the next quarter and the commission has provided information regarding the sales and production of water wraps up the report questions commissioner mcgrath no questions rather than just speculate on attorney sprain's a question about how sales are down and production is is up we have executives
- 2:22:44 from wacca here you guys got a quick answer to that situation thank you everybody do you solemnly affirm that the testimony and evidence you're about to give his truth the whole truth and nothing but the truth sir thank you yeah could

you guys speculate if you like i mean i am curious as to how uh how sales are down and production is good morning sorry good afternoon sir i'm lorraine kelly chief financial officer at the water and power authority and i have some preliminary analysis but what i would like to we start allowing yeah i'm sorry um i have some preliminary analysis and analysis and what i'd like to suggest is by end of day tomorrow that i can submit this to you in written form um you wanted you wanted speculation i just i'm just curious i just speculate yeah carl knight ceo um you know if the question is production of um sales down and that leads to to losses in the system and loss is probably originating from two different places one we've had a flushing program because of some of the discoloration issues that we have so that would be reported as non-revenue water and of course we do have leaks in the system that we are trying to to rehab we have old ductile line pipes that have um far exceeded their useful life and so we are um trying to to rehab those we also are starting to suspect that some of our tankage may have um be compromised in some way so we're also evaluating that to make sure that our tankage is not also contributing to to water loss

2:24:36 i thought i read in the report that water loss increased from like 30 some percent to about 50 i i can see that from the december information that we have here to date um for 2020-24 um we actually are going to give you this in the two islands saint croix separate from saint thomas and that includes saint john um for saint croix we actually have a an increase in our line loss went from 69 to 72 and a half percent and for the saint thomas saint john we had a reduction of um from 32 and a half percent to 27.8 percent and in terms of actual production numbers for last year and in thousands um we actually have um again i've got them by island um but we have last year sorry this year the saint croix um we had 577 000 um and last year we had 586 000 so that's a slight decrease in terms of production with water and for saint thomas saint john we had last year 445.9 so 446 000 um and then this year it went down to 400 it's pretty much the same it's 445.9 in both instances so the watering produced in saint thomas saint john was was consistent year of the year that we had an improvement in line loss for saint thomas st john and a decline in line loss for saint did i hear you correctly that we have a 70 plus line let me put an asterisk to

2:26:29 that um i i i don't um that's an accounting report it's not an industry report it doesn't account you know industry calculations of water loss speak to revenue water non-revenue water it speaks to so So for instance, if I'm out there flushing where the fire department is out there holding a fire, it's not just show part of the accountants as we didn't bill for this. We do need to be a little bit more nuanced in our reporting on line loss as to what portions are system losses versus what portions are station service, approved usage, approved non-revenue orders versus what portions are diversion and theft. so there is someone nuance that we need to add to that so while the percentage of water that's not built for is large there are some component parts such as the flushing and other component parts there that that report doesn't speak to so for the mechanical or otherwise unexpected line losses system whatever um how are contracts structured with seven c's in terms of of what we are obligated to take from them.

2:27:41 And do we get any relief at all because our contracts are so large on a take or pay basis that we can afford to lose a whole bunch of water? Or do we pretty much pay for everything that they do on a per gallon basis? So I'll answer the question, we pay for Seven Seas can use water. I'll add to that, Seven Seas has approached us, This has approached us, or did approach the government, I assume WAPA sometime last year, about providing the capital to replace some of the infrastructure that is failing, contributing to the line losses. That got sidetracked for two reasons. One, the ongoing relationship with 7Cs, but most importantly, the fact that WAPA is the benefactor of a replacement from WAPA.

2:28:30 So sometime over the last few years, put this important project first and then subsequently St. Thomas for approval for prudent replacement. The first large prudent replacement project, I heard the conversation earlier with the Waste Management Authority, the first bundled prudent replacement project has already been put out for bid on the Northeastern, I think we call it the Northeastern quadrant of St. Croix. so that that is already all for bid i think proposals would do are being evaluated now things can speak more to that so the that project has the promise of having a large swat of portions of a system that are leaking so for instance that project works from tight village all the way to the state moraine on the island of synchro that's miles of pipelines going to be replaced i think that's going to put a real dent in the losses that we've been experiencing. There are two such projects planned for St. Croix in addition to the smaller neighborhood rehabs that we're also doing as well. Thank you. We'll move on to Wampa Electric Fuel Procurement Contract Report.

2:29:54 I think last meeting, we just continued the water layup right to the next meeting. So it officially expires now, we should have a motion to continue it to your next meeting. Is there a second? Second. I'm a second. Ropal?

2:30:30 Commissioner McGrath? Yes. Commissioner Sam? Yes. Commissioner Raymond Williams? Yes. Commissioner Hughes? Yes. Commissioner Pedro Williams? Mr. Chair, we have five votes in here. The motion is passed. All right, thank you. The next item, electric fuel procurement transfer. One of you two. I'm sorry, I wasn't sure. um okay we have um we have a uh begun the procurement process for um so there's two procurements i think you're referring to the lpg

procurement we've begun the process uh we secured a consultant caribbean utility services they're drafting the request for proposals we anticipate that draft to be completed this week um we anticipate um we'll throw back and forth on that draft having it uh advertised um at the start of the month of march thereabouts um the expected contract award sometime in perhaps 60 days of of that um advertisement um we in the meantime we have conversations with our current field provider VTOL to extend on a month to month basis the existing arrangement to make sure not only do we have time to go through a proper procurement process but to also make sure that if in fact we do select a vendor other than VTOL that there

2:32:22 is enough time to allow them to make the logistical adjustments that they would need to make to meet Mayor Mrakas, Mn.D.: dollar satisfied there's a particular process that has done on probably a couple months behind the schedule of beyond, but the process is. Mayor Mrakas, Mn.D.: No question. Mayor Mrakas, Mn.D.: No question. Mayor Mrakas, Mn.D.: Questions.

2:32:53 I'd like to see if you would submit to the commission, please, the scope of the I don't care about the financials of it, per se, but the scope of the engagement with your field consultants. I'm particularly interested if they're also providing to you market analysis services, defining participants in the market, other than just helping you write the RFP. Yes, we can provide the scope.

2:33:23 So part of the reason was just to put out a solicitation. We would have done that as we just recently did with the LFO contract. We did that in-house. But this, we have asked a consultant that can help us with some of the market analysis, so we can evaluate pricing in that fashion, as well as to make sure we secure, attract as many players and make the process as competitive as possible. again i i'm not particularly interested in what you're paying uh the entity i i am particularly interested in what you're asking them to do um i'm assuming we should be able to figure out their qualifications just from a search of their their name and organization okay thank you appreciate that um you should have the rfp completed by 11 59 of february 14th same time as the poll the draft my consultant is providing me with a draft rfp um i think i said we should have we should complete our review and have it wrapped up by the end of the month i thought you said the week i should have a draft document by the end of the week um but i still need to go through it as a consultant stab at it we still need to look but by the time we meet again I thought it's a new week, but then you should advertise in March. Yes, we should be advertising. We should be ready to advertise sometime in March. Yes, I should have, maybe I shouldn't have spoken to the draft. We should have a completed RFP in March. And then we have another two months or so So we should have a new agreement by June.

2:35:34 I think when I worked backwards on the timeline, I think we were saying June 1st, yes. The agreement with VTAL actually expires at the end of this month. We have already begun conversations and we have rough terms for a budget section. I think we're going to send them into the summer just to make sure that we can complete the process. We'll see the structure of the agreement that makes sense for those conversations. All right, thank you. Just a couple of follow-on questions. We've had some internal discussion about um engaging our own fuel consultant just to educate the psc on the state of the market and what what might constitute a an open rfp process i don't particularly think that is necessary to the extent that we can live a little bit off of uh your consultant so to the extent that you're willing to share uh his recommendations to you and his summary of the market and you know his well we're going to see the rfp anyway um then i don't think it's necessary that the psc necessarily take on and first find and then take on a separate consultant at an additional expense which would be paying um so i i hope we can get great cooperation from you with respect to information sharing on what your your consultant is telling you um the question also came up

2:37:26 earlier today about the currently act and the current fuel contract and what what's the the psc's role in in contract approval and the comment that i made to my fellow commissioners is that we've approved a current fuel rate which is substantially less than that which you're paying and that number is used in the act to calculate the uh the approved LIAC rate. I'd just like to make the point that as you go through this process, you can of course obligate the authority, I guess, to any contract that you like, but that doesn't bind the PSC in the LIAC process to reimburse you for those amounts. And I would encourage you to, prior to executing a contract with another fuel vendor, this time bring that contract before the PSC and gain our approval of it um your choice but i'm saying if you want those amounts considered in liac you run the risk of signing the contract and we take a totally different view of its adequacy so what i'll commit to is transparency in the process um if i see the data analysis um we can share the rfp and certainly we can share the evaluation report that leads to the selection so i'll commit to transparency in the process i just wanted to make the point that the psc has historically used a number which we've approved we intend to do that going forward we'd love the opportunity to approve that prior to your execution and not afterwards because then both parties are not at risk for for a differential um we're going to deal in the discussion here about deferred fuel largely which is a discussion about the differential between what you're paying and what we approve um so i think there's a great example on how not to do this um going forward so

thank you chair is there a commitment that you're going to provide

- 2:39:27 it i didn't even ask for the commitment i i'll say this i understand what you want sir i understand the wisdom of commissioner Hughes's point um it doesn't make sense for us to contractually commit to pricing that ultimately the psc has a vehement objection to um it's my hope that as we go through the process because i also um you know my first uh regulator is my board and so as i uh i have to get board approval of whatever contractual obligations i plan to enter into and um certainly um as i build the case in the argument i can share that with the public services commission and if there's a strong objection of questions that as to process maybe that can give us pause or maybe it might inform us in our contract negotiations with a selected member so i do understand the point i want to make sure that procedurally we come up with a process that is sustainable i don't want to set a precedent um that isn't sustainable and so i'll put some thought into procedurally how we can manage this particular aspect of our operation which is the field procurement um that ultimately gets priced into the books and i'll figure out um we'll probably huddle as a team and figure out procedurally what that should look like and could look like oh i'm not gonna get a comment man all right we'll move on um phase two whatsoever phase two whatsoever um um the sorry yes we um we did provide a report this morning on running hours i um i would have Mr. Lavinere, join us just to add any color that you may want. So we provided a report on running hours. We should have that.
- 2:41:40 We have what's 4, 5, 6 and 7 have been online for the latter part of December. part of december or most of january uh we have in fact encountered some um some warranty issues that as of this morning those uh three of the four units are not online um i think a large portion of those warranty issues as i understand it once it was one two three one through three or one two three whichever one um those worked primarily on a gaseous uh fuel propane in its gaseous form whereas uh wazila's four through seven work with propane in its liquid form um it seems like we have uh some mechanical issues that we're working through with wazila regarding the deployment of the liquid probane on wazila's four five six and seven so their availability um in the last couple of weeks has not been what we had hoped for and we are expecting a wadzilla team to help troubleshoot some of the issues that we're having as part of the warranty um agreement with one so so but we have provided the um megawatt hour production of those units for the last uh several months going back to october of last year we still have number one so a team a team of members stationed in the territory yes we have um an ongoing um we have a team that is here it's a skellington group um as i said that was a system commissioning and we are bringing in they are bringing in a more technical team to our next staff and provide
- 2:43:34 troubleshooting insight into what the issues might be that's affecting the availability of those units I have with us our new Chief Operating Officer, Mr. Manuel Lavineer, and we can certainly speak to some of those experts. Thank you. Please raise your right hand.
- 2:44:01 affirm that the testimony and the evidence that you will be providing today is the truth the whole truth and nothing but the truth i hope you got thank you thank you you state australia name L-E-M-U-E-L. Last name Lavinia. L-A-V-I-N-I-E-R. we do have um you're gonna have to speak up because i know they can't hear you there is a field service technical expert on island they've been assessing the issues with what it was five six and seven the engines suffered some plug blowout they've inspected one of the engines there was some cooling water in the unit there was also an indication of the head gasket that was damaged so each of the engines five six and seven based on the observation the engines have to be dismantled and for that reason we don't have all of the parts the the past list for the engines so that information is taking some time questions commissioner yes uh so did you determine whether the the units were
- 2:45:51 warrantied or not we're under warranty the units are currently on the warranty to be prepared on the warranty you said probably no i said they are they are on the work oh they are on the warranty okay yes and we do have warranty with water okay that's i have no further question no question yeah so what are the ones you said that's covered by the warranty what are the issues that you're talking about um we have we have issues with the uh the dual fuel injector um the We've experienced failure, early failure of the injectors of Mozilla is working on resolving that issue. That is one of the bigger issues that we have.
- 2:46:56 So what you just mentioned, those are not included in the warranty? Yes, those are included. They are included. That's just an example. So when you say warranty issues, I guess what I'm thinking is, is there something that That was not included in the warranty that you're having an issue. Okay, we're saying these are issues that are subject to the warranty with one. So, so these are repairs that once acknowledges within warranty responsibilities. So are they presently repairing or fixing these items? And if so, what's the turnaround time for them to be fixed so that we can use these units on a regular basis?
- 2:47:38 So we don't have a full ETA. So as I said, there is a team that's traveling next week. There are some issues. There's a team here that's working on some of the minor issues. But there seems to be a more, I want to say systemic, but there seems to be something that they really need to have a better grasp of. so there's a technical team that's traveling um once they're on

the ground they'll be able to give us an eta so the repair is one thing but to make sure it's not a reoccurring failure we want to make sure that we don't have the same challenges once we get outside of the warranty period so um we ran on just a repair we want to get the analysis and have an understanding of what the what might be the cause so when's this team supposed to be here like when are they going to start work do we know uh mine is sending from the uh project engineers uh sometime next week they should be on the ground if you get your specific will you keep us um informed of this process certainly will do but by the time we meet again we should have a firm update on what we fall okay it is if it's not yet prepared or please prepare and um but the prognosis is more important of course i'll keep the uh staff informed thank you very much yeah are the uh are both grid scale storage uh installations that is a nine megawatt hour over on st thomas and honeywell stuff on st croire are those both fully commissioned and functioning at this point integrated the uh uh the honeywell batteries on the petronella solar farm those are emission those are working those are integrated um the mozilla batteries we did have some issues with at least one of the canisters i think we're at 75 percent um that's also something we're working through and watching um so while we have use of the batteries it's not currently at

2:49:40 full capacity so i mean how would you characterize your understanding of how you're going to use grid scale storage um i know there was a plan obviously we wouldn't have spent is it evolving particularly with respect to honeywell how how we're dispatching that that as both a load and a generator something in response to them this lavender could probably give you more technical responses to how we forecast it moving forward but um there are two different systems um the approach in the in the chrome bay random harley plant is uh to back up generation and so we have nine megawatts of standby power that backs up the nine megawatt once the engine cold starts all the good stuff right uh there are points during the evening when we can discharge on battery power if it makes sense to you know rather having to start another another unit um and then the next day we start to to recharge and so that's how that has been discharged it's prevented some of the new sense outages as we lost generation or has helped us meet peak at times that's how that value is used one in petronella was primarily um designed to smooth out fluctuations i know there was a lot of ambiguity as to what role the battery would play in the system we do have the ability to dispatch that after the sun goes down we continue to dispatch from the battery to get a little bit more production from the farm before the end of the day but primarily it plays a role during the course of the day of smoothing out fluctuations of cloud cover and haze and anything else that might reduce the full production potential of that farm seeing the batteries sitting at ogensburg they're not they're not dispatched they're not dispatches here okay and um and you had you have nine megawatts in st thomas under the the internal

2:51:39 installation just right that's correct nine megawatts uh 18 megawatt hours okay so it can it can discharge at the rate of nine megawatts per hour for two hours so it can replace the loss of of your largest port cellar? Yes, for at least two hours, yes. Okay, thank you. I wasn't clear, you're saying that what cellar's four to seven, are they functioning at all?

2:52:06 Or what percentage are they functioning? Four is online right now. We're five, six, and seven are offline for repairs. Yeah. Of the four, one of them is online, The three of those are deemed unavailable right now. So as a result of that, are we anticipating blackouts? We never anticipate blackouts. We should. So we do have the first three Watzillas.

2:52:43 We did have some unavailability on Watzilla 1, but we do have Watzillas 2 and 3 dispatch. have units 15 dispatch those are all on lpg um and then we supplementing um unfortunately we have had to supplement um production at times with unit 23 so unit 23 is online right now as we speak um unit 23 as you know is notoriously unreliable i'm told i'm not supposed to speak ill of unit 23 but Unit 23 is online.

2:53:17 So we anticipate that we'll be able to keep on the current situation until the technical team arrives sometime next week and do what they're supposed to go to get us back to that Unit 527 will be back online. My guard is good. He's going to hold down everything intact until we can get the uh technical team in here and solve those issues get about that this morning huh what are you holding reserves 27 on diesel no 27 is offline so we're right now so when we started the year we actually had standby capacity right now we don't have standby capacity we're running all the events that are available okay what is your warranty period how many bonds a year so it goes based on the hours uh running hours and you're saying eight thousand that sounds that sounds like a lot let me get back to you let me um let me get back to what the contractual language says yeah i'd like to know what how much time we have left on that one yeah let me let me consult the contract so i can tell you what what it actually is what's the plan for the long-term operation of the wartsilla units we contracted with wartsilla are we planning to do that ourselves we are in conversations with wartsilla as as we speak the when i came on board the initial mindset was to engage him with an o m contract as we had done for the first three units um there's two wrinkles to that conversation one we're looking at the marriage of the original O&M contract with the current engagement and two um with the onboarding of Mr Labanir on January 7th he has suggested that we look at a more traditional approach to the O&M as other Caribbean

2:55:19 countries are using with Wansilla, which is less on-site presence, more engagement on routine maintenance intervals, and building an on-site presence that's in-house as opposed to relying on them to be on-site. So we are exploring what makes

sense from a cost perspective with Wansilla that doesn't compromise the maintenance needed on those units. What is the current engineering staff and levels of WAPA? A little bit more than waste management.

2:55:59 We have well over a dozen engineers between generation. on the electrical side it's probably at least 10 engineers we have some additional engineers on the water side as well um so it's probably a little over a dozen engineers and then i have of course engineers throughout the management team this lab there um uh carrigan in the car plant we have engineers throughout the management team as well for our staff engineers probably about a dozen How much should you have?

2:56:38 Me and Mr. Lamine, I had that conversation just this morning about how we structure the company. We're always recruiting. We have an active recruitment program through our scholarships and our summer internships. one of the ongoing conversations so yes when we get to projects such as food and replacement that's beyond some of our staff capacity so we're outsourcing a lot of the work for planning design in some cases project management and um for routine operations maintenance systems planning we want to make sure we maintain adequate capacity in-house i'm always in need of uh engineers i we're looking at what we can get away with i would probably say i'd be comfortable if i had about five brand spanking new engineers hopefully with some experience i could take on some some novice but maybe two or three that are experienced engineers would probably get us on solid footing territory-wide territory-wide yes and most of our engineers work territory-wide um we they do focus on their districts but um wapa is a territorial entity and we do move back and forth depending on the since we're talking about a generation effectively that's that's a great view of saint thomas what what if anything's going on in synchro we're starting to see more frequent and more serious outages it's been my experience since i've gotten back on island that suggests to me that the older larger units are becoming more problematic um yeah i i um i'll pull some data i don't know if i would characterize it as as such um we know that we have a lot of feeder outages and so for those folks that reside on feeder 10b um their experience their experience may not be indicative of of the rest of of the island and a lot of the issues

2:58:47 we've been having on 3 to 10b ultimately on vegetation management so there is a concerted effort uh to address vegetation management we hosted on saint thomas uh just last week uh some 500 tree trimming um entities uh that were here for their annual conference um i did make some overshores to a few several of which have expressed an interest in providing contractual vegetation management services so we are targeting an arrangement to hopefully begin on june 1st we've also secured uh federal funding to build and train um a in-house tree trimming crews something that wapa used to have um apparently we've moved away from in recent years so we're looking to restore in-house tree trimming capacity we have also identified a training entity that should provide training to our in-house tree trimmers so we're working on the vegetation management issues uh you're absolutely right um unit 17 and units 20 are way past due for major overhauls you know 20 was down this past weekend um we did have a brief island white outage on saturday on the island of st croix um had unit 20 been available we would not have experienced that outage but we did have a lot of um debris in the exhaust stack that required almost a week week and a half worth worth of work to remove um and a lot of that has to do with deferred maintenance on unit 20. uh unit 19 is in fairly good shape but it's a diesel burning unit um our two propane or dual fuel units 17 and 20 are due for for major overhauls we haven't had the luxury of being able

3:00:33 to take them down we are beginning the product replacement process um one step in that process is the removal of the old unit 16 clearing that site which would uh potentially allow us to acquire a temporary gen set as part of the replacement ultimately of the generating units if we can make that happen as a first step in the prudent replacement. It will actually bolster and augment our generation capacity on St. Croix. We do have the benefit of 10 megawatts of solar production coming out of the Petronella solar farm. We are looking forward to sometime in the next few months being able to augment that with solar production from Hugginsburg as well as the benefit of having those batteries to support and sustain the operation so we're making progress we need to really engage on the full replacement of the Richmond power plant as we have been funded to do and so that's a larger conversation that we're having with ODR and our other partners as to how we phase that project I think we have some concepts as to how what we would like to see there as far as generation but there's some planning and a lot of legwork we want to make sure that we do this the right way the Richmond power plant is a hodgepodge of development over the years is a real opportunity to start from the ground up and design the power plant as we would want to see it designed for optimal performance including the types of units that we put in that power plant and I should also suggest that there's also an opportunity to do green fields and look at generation outside of the boundaries of the richmond power plant which is also

3:02:21 a very promising opportunity on the other sinkhole as well you know that if you're personally upset with me you don't have to make everyone on 10b pay right we we can shut the meter off we can do lots of that i i try to tell them make sure you know if the tempi goes down let's make sure we find a way to keep power to the commissioner so i haven't figured that part out but yeah we know you have not actually we uh we do have some redundancy coming on feeder 8b into

fredrick's the underground system um and we continue to make uh system improvements and i am hoping uh unfortunately you're not my only customer on 10b and so i i hear it from a lot of those customers some who have just taken it as far for the course but we are um we are working on that feeder to see how we can improve thank you i actually have one question on the subject if i might um i understand both units 23 and 27 are substantially derated at the moment and they cannot reach their normal is unit 27 being offline now for the significant maintenance to help restore that operations unit 27 yeah it's down for some significant maintenance um so we are i think we have a part the part that we need we're trying to secure our contractor to do the maintenance work so it's like partially or are fully restored in this rating or at volumes maintenance no um we will restore it to availability i think we were getting i think about 20 megawatts from 27. i don't know if you have a cheat sheet there but um the it is due for major we have some decisions to make on what sort of investment we make on on unit 27 um unit 27 and unit 23 will probably be with us for a while longer but we do have a prudent replacement project to replace retired units 14 and to ultimately retire unit 15. we have sort of made some preliminary decisions on how what we're going to be procuring we're looking at about 30 megawatts of generation

3:04:38 and some additional battery storage to replace those two units and once that project comes to fruition there'll be some questions the question is how much investment do we make in the legacy units between now and then do we just keep them running or do we really take them down and do the majors where's the best what's the best investment considering the fact that we have seven new or fairly new one to the engines um and the opportunity to put in another at least 30 megawatts that we're targeting of generation on saint thomas we do have um we are kind of working through these issues right now thank you sir um next item docket 703 walk with the full energy balance i think i can short-circuit this discussion a bit if i might We'll be, read about the fact of the information that you were discussing program programs. I do have just basic questions on the board.

3:06:02 What are you carrying on your balance sheet right now? As of last month, it was \$139 million. Increasing each month. Okay. If you have the information available, what was the total aggregate amount of public subsidy that you received, I guess, coming forward from ARPA at least? I apologize. I don't want to quote the governor in the newspapers. I don't think that's that number on the agenda, but I can get that to you.

3:06:34 Yeah, we can get that to you. Some of it is clearly fuel subsidy. Some of it, some of the assistance we've gotten, particularly during the state of emergency, some of it was vendor payments. So we need to disaggregate the portions that were for assistance with vendor payments versus the portions that went directly with you. i think there'll be some questions as to whether or not the commission cares that you disaggregate because we view it as additional revenue without respect to how you want to characterize it i'm not saying that i represent the position of the commission but i'm really interested in the big numbers right now just so we have a sense of as we go into this discussion um what we're talking about 140 maybe 100 million and aggregate subsidy i think was the last number that got kicked out so i want i want to be clear though right so if we're talking at the conversations about the deferred fuel balance um there was support that we've received over the years to assist us with fuel which should count against that deferred fuel balance in other words under recovered we weren't able to make that actual fuel expense but we received subsidy to make that expense there's other amounts that was passed over to the authority that has were not directed at fuel those had to do with things like hurricane preparedness and purchase of spare parts and other things that had nothing to do with the deferred fuel balance so i just want to make sure that that we're clear at least the commissioners are clear that that there's a there's a larger number but when we are having the conversation on deferred fuel balance that's different so and i'd like to be clear that in the commission's accounting as you know the math the accounting gets a little more complicated when you open up that second

3:08:24 basket of subsidies because we have to understand where you have collected over collected under collected then both at the base rate level so to the extent i'll put a pure hypothetical out there that i'm almost certain is not true let's just say you've collected perfectly against the electric base rate portion of rates and that your estimation of sales which that is calculated was almost perfectly accurate so you got everything out of base rate you're supposed to get nothing more at that point additional dollars that you get are additional revenue to the authority and it is well within our purview to say okay we're going to allocate that against liac which was not even close to being accurate as a as a metric for you i'm just putting a hypothetical out there for you to say the commission looks at this i'm certain differently than you might on a pure accounting basis although thank you sir if i may add loren kelly if i may add one distinction that is a difference between what you might hear um on the news media and what you will hear from me as the cfo and i'll give you an example um there is in my opinion a misunderstanding regarding um some payments that were made to us in 2020-24 for example um the gvi made payments so that the balances that the waste management and the hospitals owed us were fully paid now in our opinion clearly a payment on the receivable i don't really care right that that was money we want to disaggregate that so that when we come to you we've got a an approach going back to our waste management discussion

today that's all operating revenue um to the to the authority without respect to who paid their bill i get it that's fine right but from from that perspective the point that i would like to make is from wapa's perspective those monies were given from the gvi to waste management so that waste management could pay

3:10:25 their bill not money that was paid to i wouldn't challenge that interpretation at all so but we'll get you um we'll get to those yeah i just i'm trying to i'm trying to set the table for a broad discussion of what what the magnitude of this accommodation we're trying to reach how it will be arrived at any other questions from commissioners all right there's nothing further thank you for your testimony and your presentation do you have any business from the commission i move i move to adjourn okay this is a study

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.

3x **Commissioner Laura Nichols-Sams**
heard in this transcript as: Lauren Nichols-Sams

2x **Commissioner Clement McGrath**
heard in this transcript as: McGrath

2x **Commissioner David Hughes**
heard in this transcript as: Hughes

2x **Commissioner Pedro Williams**

2x **Commissioner Raymond Williams**

Bills and acts referred to

Matched by number against our own acts corpus. The number is what the recognition heard, so it may be wrong; where it resolved, the title is the one the Legislature gave the act.

Act 8471 · Act 8471 · May 4, 2021 · An Act amendn't the Virgin Islands Code title 3, section 273(a) relating to the Public Services Commission to establish the Commission as a semiautonomous agency; amending title 30 section | to eliminate certain businesses from regulation as a utility and to subject the Waste Management Authority to regulation; authorizing the Virgin Islands Water and Power Authority to hire a turnaround management company; adding chapter 9 to provide for resolution of customer complaints against wireless telecommunication providers; and for other purposes related to the Public Services Commission, and the Water and Power Authority, enacted by the Thirty-Fourth Legislature of the Virgin Islands at its Regula