



GOVERNMENT OF THE VIRGIN ISLANDS
OF THE
UNITED STATES

—0—
Public Services Commission

VIA ELECTRONIC MAIL

October 5, 2009

Michael J. Springer, Jr.
President, Crucians in Focus
St. Croix, VI

Re: PSC October 5-6, 2009 Hearings

Dear Mr. Springer:

The Virgin Islands Public Services Commission is in receipt of your letter dated October 2, 2009 regarding the PSC hearings scheduled for October 5-6th. In your letter you indicate that the Commission is in violation of several notice and public access requirements.

First, you state that the Commission failed to give proper notice of the hearings and cited 29 V.I.C. §239, which you indicate states, “a notice setting forth the general purpose of any such hearing and the time and place thereof shall have been published in a newspaper of substantial circulation in the area at least twice at intervals of not less than two (2) days; the first not more than fifteen (15) days nor less than ten (10) days and the last not less than two (2) days before such hearing.” Please be advised that the Commission’s order was timely submitted to the public. Further, the section of the Code that you cite to is incorrect and does not apply to the Public Services Commission. Title 29 of the Virgin Islands Code applies to “Public Planning and Development”. The Public Services Commission’s enabling statutes are contained in Title 30 of the Virgin Islands Code. The relevant sections are contained specifically in sections 20, 22, 23 of Title 30 and in the Commission’s Rules and Regulations specifically, 30 V.I.R. &R. § 11-42.

The Commission has the authority to hold hearings to investigate matters relative to any “rates, tolls, charges, or schedules, or services, or time and conditions of payment, or any joint rate or rates, schedules, or services”.¹ Further, the law requires that the Commission does so within the context of public hearings in order to give the public and the affected public utility the opportunity to participate. Additionally, 30 V.I.C. §22 states that the Commission must give “10 days notice” to the utility and the complainant (if one is so involved) of the hearing date.² This timeframe is similarly echoed in the Commission’s Rules and Regulations as codified in 30 V.I.R.&R. § 11-42 which also states that notice for such hearings be given within 10 days of the meeting date.³ As it states:

Formal hearings and investigations will be held on not less than ten (10) days notice to the public utility or person involved, to begin at a time and place designated by the Commission. Such hearings will be

¹ 30 V.I.C. §20

² 30 V.I.C. §22 (alteration from the original).

³ 30 V.I.R.&R. § 11-42.

conducted by the Commission, a designated commissioner, or by an agent appointed pursuant to 30 V.I.C. §18.

For clarification, unlike the time frames set out in Title 29, the Public Services Commission's mandates as expressed in Title 30 and as promulgated in the Commission's Rules and Regulations are vastly different. There is no such requirement that the Commission issue its notices within the format and time frames described in Title 29. Further, please find attached to this correspondence for your review a copy of the extensive media list that the PSC's Notice of Hearing was sent to for publication on October 25, 2009. This media list includes the Daily News, Avis, Source, TV2, WVGN, and WTJX among others. The Commission is satisfied that based upon its authorizing statutes it has provided timely notice to the public as required by law.

Also, in your correspondence you indicate that the Commission failed to properly identify the location of each meeting. Upon review of the Notice of Hearing, it is clear that this is simply inaccurate. The Commission's staff has since contacted the newspaper you identified and they have stated that the error was on their part, and that they will correct it. However, it should be noted that while one publication was in error, the Commission has sent this information to various media sources in response to the anticipated interest by the Community on this very important issue.

Secondly, in your correspondence you argue that the Commission is mandated to place the relevant documents in *Docket 584: Petition for Approval of WAPA Alternative Energy Projects* upon its website. Please be advised that there is absolutely no legal mandate that the Commission provide such access. Contrarily, pursuant to 3 V.I.C. §881, the Commission acted lawfully when it informed the public that the documents are available for review within its offices under the supervision of its Custodian of Records, and that any copies or duplications of the documents contained in Docket 584 for the public review are compensable administrative fees set by this agency.

For your clarification and review please note that 30 V.I.C. §881(b) states:⁴

Every citizen of this Territory shall have the right to examine all public records and to copy such records, and the news media may publish such records, unless some other provision of the Code expressly limits such right or requires such records to be kept secret or confidential. The right to copy records shall include the right to make photographs or photographic copies while the records are in the possession of the lawful custodian of the records. All rights under this section are in addition to the right to obtain certified copies of records under section 882 herein.

30 V.I.C. §881(c) continues:⁵

Such examination and copying shall be done under the supervision of the lawful custodian of the records or his authorized designee. The

⁴ 30 V.I.C. §881(b) (emphasis added).

⁵ 30 V.I.C. §881(c) (emphasis added).

lawful custodian may adopt and enforce reasonable rules and regulations regarding such work and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for such work, but if it is impracticable to do such work in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for such work. All expenses of such work shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or his authorized deputy in supervising the records during such work.

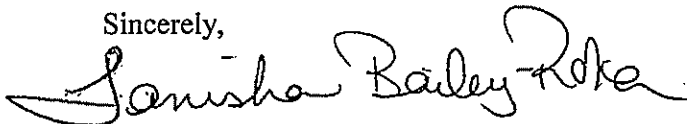
And finally 30 V.I.C. § 881(d) states:⁶

The rights of citizens under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from nine o'clock a.m. to noon and from one o'clock p.m. to four o'clock p.m., Monday through Friday, excluding legal holidays, unless the citizen exercising such right and the lawful custodian agree on a different time.

What these three sections of the Code discuss are the unquestionable rights of the public to review all non-confidential material of all government agencies, including the Public Services Commission. However, it gives all agencies, including the Commission, the power to ensure the maintenance of the integrity of all public documents and that the associated costs of reproduction will be borne by the individual seeking the documents and information.

The Public Services Commission at all times operates within the parameters of Virgin Islands law. We welcome the participation of the public in aiding the Commission in making the best decision for both the utilities it regulates and the interest of the rate payers that it seeks to protect. The scheduled hearings will proceed as legally noticed. Your organization is welcomed to attend and offer any commentary it wishes under oath at these hearings.

Sincerely,



Tanisha Bailey-Roka, Esq.
General Counsel

Attachments

cc: The Honorable Senator Craig W. Barshinger
PSC Commissioners
Keithley R. Joseph, Executive Director

⁶ 30 V.I.C. §881(d) (emphasis added).



GOVERNMENT OF THE VIRGIN ISLANDS
OF THE
UNITED STATES

—0—
Public Services Commission

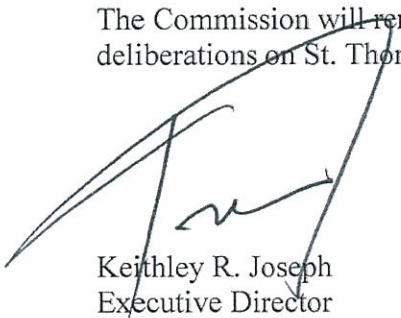
VIRGIN ISLANDS PUBLIC SERVICES COMMISSION
NOTICE OF PUBLIC HEARINGS

Notice is hereby given that the Virgin Islands Public Services Commission will hold Public Hearings on **Monday, October 5, at 5:30 PM** in the V.I. Port Authority Conference Room, located at the Henry Rohlsen Airport in St. Croix, and on **Tuesday, October 6, 2009, at 5:30 PM** in the Office of the Public Services Commission, located in Barbel Plaza, St. Thomas, United States Virgin Islands.

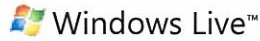
The Public Hearings relate to the proposed Power Purchase Agreements submitted to the V.I. Public Services Commission (hereinafter "PSC" or the "Commission") by the Virgin Islands Water and Power Authority (hereinafter "WAPA" or the "Authority") on August 28, 2009. The Authority requests Commission approval of the Power Purchase Agreements with the Alpine Energy Group (hereinafter "Alpine") through its subsidiaries AEG Anguilla Power LLC and AEG Anguilla Power LLC. Alpine is proposing to construct and interconnect two Petroleum Coke and Refuse Derived Fuel facilities at the Bovoni Landfill site on St. Thomas (33 MW generation capacity) and at the Anguilla Landfill site on St. Croix (16 MW generation capacity).

The Commission will take testimony on these matters from the Water and Power Authority, the Waste Management Authority, and the PSC's staff. Persons wishing to offer commentary on this matter should submit them in writing in advance of the hearing to the attention of Michael Moore, PSC Legal Assistant at msmvi@hotmail.com or via fax at 340-774-4971. Time may be allotted for the public to offer comments during the hearing at the discretion of the Commission. The documents relevant to these proceedings are currently available for review by the public in the Commission's offices on both St. Croix and St. Thomas.

The Commission will render its decision upon the conclusion of the hearings and at the end of its deliberations on St. Thomas on Tuesday, October 6, 2009.



Keithley R. Joseph
Executive Director



Home Profile People Mail Photos More ▾ MSN ▾

Search the web

Hotmail

New | Delete | Mark as ▾ Move to ▾ | POP Messenger ▾ | Op

iverine_h@hotmail.co...

Reply Reply all Forward |

Inbox (228)

Junk (3)

Drafts (1)

Sent

Deleted (126)

lisa melchoir

Myrna George

Sylvia Dore (6)

[Manage folders](#)

[Add an e-mail account](#)

Related places

Today

Contact list

Calendar



Notice of Public Hearing

From: **Iverine Hedrington** (iverine_h@hotmail.com)

Sent: Fri 9/25/09 9:14 PM

To: Avery K. Williams (awilliams@lmi.org); AVIS (avisads@viaccess.net); Bennett Ross (bross@wileyrein.com); Brita Dagmar Strandberg (bstrandberg@wiltshiregrannis.com); Byron Smyl - Vitelco (bsmyl@alvarezandmarsal.com); Carl Joseph (cjoseph5@vienergy.org); Claudette Ferron, Esq. (ferronfirm@msn.com); Daily news (dailynews@vipowernet.net); D Atwell (datwell@viwma.org); David Sharp (dsharpvi@aol.com); Delrise varlack (bossladydv@hotmail.com); Desiree Hill (deshill@msn.com); E. Clarke Garnett (clarke@ecg-enterprises.com); Emily Sabo (emilysabo@aol.com); Emily sabo (emilysabo@esabovi.com); Emily Sabo (fozz@viaccess.net); Glenn Rothgeb - WAPA (rothgebg@viwapa.vi); Hugo Hodge, Jr. (hodghev@viwapa.vi); Iver Stridiron, Esq. Waste Management Au (istridiron@viwma.org); Jennifer Jones, Esq. (jjones@viaccess.net); Jorge Bauermeister (jorge@bauermeisterlaw.com); Joss Springette, Esq. (springettejoss@aol.com); Larry Gawlik (lrgawlik@aol.com); Lorelei Monsanto (lozeleivi@earthlink.net); Lorelie Farrington (farringt1m@viwapa.vi); Majorie Smith (caribbean.fastferry@gmail.com); Maurice Sebastien (maurice.sebastien@viwapa.vi); May Adams Cornwall (macornwall@viwma.org); Nellie O'Reilley (Senator) (teamnellie@gmail.com); Nellon Bowry (bowrynl@viwapa.vi); Ronald Belfon (rbelfon@belfon.vi); Ronald Belfon (rbelfon@gmail.com); ronwoodly@hotmail.com; Roosevelt David (rooseveltdavid@hotmail.com); Rosalie Ballentine (roselaw@viaccess.net); Samuel Hall (sam@hallgriffith.com); Senator Carlton Dowe (gpiper@legvi.org); SOURCE (source@viaccess.net); Stella Saunders - Waste Management (ssaunders@viwma.org); TV2 (mnissman@tv2.vi); William L. Roughton, Jr. (broughton@centennialcorp.com); WTJX (abruce@wtjx.org); WVGn (info@wvgn.com)

© 2009 Microsoft | Privacy

1 attachment

Public He...PDF (414.9 KB)

Accour

Hi All:

For your information

Waste to Energy Project Agreements Available for Public Review

From: **Cassandra Dunn** (cassandra.dunn@viwapa.vi)

Sent: Fri 10/02/09 4:08 PM

To: (Unknown)

Attachments:

image001.gif (2.4 KB), image002.jpg (2.4 KB), image003.jpg (1.7 KB), image004.jpg (1.9 KB)



The Virgin Islands Water and Power Authority

Corporate Communications

PRESS RELEASE

For information contact: Cassandra Dunn, Director, Customer Service and Corporate Communications
340-773-2250 extension 4085 or 340-690-5758

Friday, October 02, 2009

WASTE-to-ENERGY PROJECT AGREEMENTS AVAILABLE FOR PUBLIC REVIEW

The Virgin Islands Water and Power Authority is informing the public that summary documents relevant to the waste-to-energy project agreements with the Alpine Energy Group, will be available for review on Saturday, October 3rd at the WAPA business offices on St. Croix at the Sunny Isle Shopping Center Annex and on St. Thomas at Sub base from 8 a.m. to 12 p.m. They may also be reviewed at the Innovative business offices on St. Croix at Estate Diamond and on St. Thomas at Tutu Park Mall from 8 a.m. to 12 p.m.

The Public Services Commission will hold public hearings concerning the agreements on Monday, October 5, at the Henry E. Rohlsen Airport on St. Croix (parking tickets will be validated), and on Tuesday, October 6, at the St. Thomas PSC Office in Barbel Plaza. Hearings begin at 5:30 p.m.

All agreements concerning this project are available for review at the Public Services Commission Offices from Mondays through Fridays from 8 a.m. to 5 p.m.

Copies of WAPA's agreements with Alpine Energy Group are available upon written request to the Office of WAPA's General Counsel on St. Thomas or St. Croix.

END