



October 4, 2009

Mr. Joseph Boschulte, Chairman
Mr. Donald Cole, Vice Chairman
Virgin Islands Public Services Commission (PSC) Barbel Plaza
No. 8 Estate Ross, Charlotte Amalie
P.O. Box 40
St. Thomas, USVI 00804

Submitted via email to Michael Moore, PSC Legal Assistant at mismvi@hotmail.com and via fax to the PSC office St. Thomas, 340-774-4971 and St. Croix, 340-778-0302

FOR INCLUSION IN OFFICIAL MEETING RECORD

Dear Chairman Boschulte and Vice Chairman Cole,

This follow up letter is to:

1. Inform you that if public hearings scheduled for October 5-6, 2009, to discuss the Alpine Energy Power Purchase Agreement (PPA's) are held in violation of the public notice hearings provisions outlined in Title 29 of the Virgin Islands Code, these hearings will not be held in the public's interest;
2. The Public Services Commission is prohibited from issuing any orders on the Alpine Energy Power Purchase Agreement (PPA's) that are determined not to be in the public interest and will violate the provisions outlined in Title 30 if any favorable approval is granted upon completion of these hearings, and;
3. The Public Services Commission (PSC) is prohibited from issuing any orders that will impose undue burdens on WAPA as outlined in Title 30 of the Virgin Islands Code, and;
4. The Public Services Commission is prohibited from issuing any orders that will permit Alpine Energy Group from fulfilling its legal obligations of covering WAPA's cost that will be incurred under such Order as outlined in Title 30 of the Virgin Islands Code.

Per Sec. 47 of Chapter 2 of the Virgin Islands Code, "No Order may be issued by the Commission under subsection unless the Commission determines that such order is in the public interest and meets the requirements of section 48 of this chapter.

The PSC was informed by letter dated October 2, 2009, by Crucians In Focus President Michael Springer, on behalf of the people of the Virgin Islands, of a violation of Sec. 239 of Chapter 29 of the Virgin Islands Code

"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." Since forwarding this letter, WAPA has added an extra layer of bureaucracy to a process that was already in violation of the VI Code. WAPA announced on Friday, October 3, 2009, in a press release that the public was now required to submit a written request through its legal office to view documents pertaining to its Alpine Energy Group contract agreements. The WAPA's press release was recaptured in a VI Daily News article on Saturday, October 3, 2009, which gave the public insufficient notice that if they wanted to review Alpine's documents they would have to come before 12:00 pm to WAPA locations throughout the territory.

The WAPA public notification was also totally unacceptable and did violate the public rights as to adequate notice as mandated in Sec. 239 of Chapter 29 of The Virgin Islands Code. At this point any hearings held on Oct 5-6 by the PSC on this matter will not be in the public interest. The public rights have been severely violated by not permitting adequate notification and timely access to information.

Per Sec. 48 of Chapter 2 of the Virgin Islands Code, "No Order may be issued by the Commission under subsection 47 of this chapter unless the Commission determines that such Order will not place an undue burden on the electric utility affected by the order; and the applicant for such Order demonstrates that he is capable and willing to cover all reasonably anticipated cost and expenses, including those of the public utility incurred under such Order.

The Pet Coke Fuel Supply slide included in Alpine Energy Group documents at the PSC clearly identifies "WAPA, **at its own cost**, will be responsible for arranging, procuring, and delivering the Pet Coke to the Facilities; WAPA will contract with HOVENSA for the Pet Coke supply; and WAPA will be responsible for transportation of the Pet Coke to Facilities." This costly undue burden placed on WAPA is a clear violation of Sec. 48 of Chapter 2 of the Virgin Islands Code. It is Alpine's responsibility to incur these cost and not burden WAPA with these additional procurement and liability issues of moving this highly toxic product (PET COKE) throughout the territory. The VI Code clearly prohibits the PSC from voting favorable on this arrangement. This arrangement flies in the face of the public interest due to the anticipated increases in the LEAC that will be passed along to the public as results of WAPA assuming responsibility for this "**cost and burden**".

Should the Commission choose to go forward with the hearings as scheduled, it will be in willful violation of the provisions of the Virgin Islands Code and be left with no other alternative but to deny the Alpine Energy Power Purchase Agreement (PPA's) per the guidelines outlined in Title 30 of the Virgin Islands Code.

We strongly urge the Commission to reschedule these hearings to provide the residents of the Virgin Islands adequate, legally mandated time to review and evaluate the information and fully participate in these critical hearings. We also strongly urge that this Alpine Energy Power Purchase Agreement (PPA's) be rejected by the Commission because credible evidence exists to substantiate that Alpine did not qualify for consideration and/or award of the Virgin Islands "renewable" waste to energy contract.

"Boschulte said, Also, because the facilities will burn petroleum coke along with solid waste, they do not qualify as a renewable energy producer under the V.I. Code."

According to Chairman Boschulte and Sec. 46. Chapter 2 of the Virgin Islands Code, Alpine does not qualify to be considered a "renewable" energy producer and should not have been awarded WAPA's Virgin Islands renewable waste-to-energy contract. The PSC is prohibited from granting any favorable consideration of the WAPA and Alpine PPA because that consideration will be in direct violation of the Code.

Of equal concern is that according to Alpine's agreement (PPA Sec. 4.10) the company planned to seek to qualify its Facilities for Federal grants under the American Reinvestment and Recovery Act of 2009, when, according to VI law, the company did not qualify to be considered a renewable energy producer.

Your serious consideration of this letter will be in the best interest of the people of the Virgin Islands.
Sincerely,

Michael J. Springer, Jr.
President, Crucians In Focus
340-277-6374

Cc: Commissioners
Keithley R. Joseph, Executive Director

Sen. Craig Barshinger
Department of Interior Inspector General
US Attorney's Office