

Office of the Public Auditor
Commonwealth of the Northern Mariana Islands

**Commonwealth Utilities Corporation
Audit of Premium Pay, Overtime, and Salary Increases
From October 1, 1999 Through September 30, 2001**



Audit Report
AR-03-02



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

World Wide Web Site: <http://opacnmi.com>
2nd Floor J. E. Tenorio Building, Chalan Pale Arnold
Gualo Rai, Saipan, MP 96950

Mailing Address:
P.O. Box 501399
Saipan, MP 96950
E-mail Address:
mail@opacnmi.com
Phone: (670) 234-6481
Fax: (670) 234-7812

January 22, 2003

Mr. Francisco De Leon Guerrero
Chairman, Board of Directors
Commonwealth Utilities Corporation
Saipan, MP 96950

Ms. Lorraine Babauta
Executive Director
Commonwealth Utilities Corporation
Saipan, MP 96950

Dear Mr. De Leon Guerrero and Ms. Babauta:

Subject: Final Audit Report - Commonwealth Utilities Corporation - Audit of Premium Pay, Overtime, and Salary Increases from October 1, 1999 Through September 30, 2001 (Report No. AR-03-02)

This report presents the results of the Office of the Public Auditor's (OPA) audit of the Commonwealth Utilities Corporation (CUC) compensation practice from October 1, 1999 through September 30, 2001¹. The objectives of this audit were to determine whether: (1) CUC adopted adequate policies and procedures pertaining to premium pay, overtime, and salary increases, and (2) CUC practices for processing premium pay, overtime, and salary increases provided to its employees complied with applicable policies and procedures.

CUC failed to develop and adopt adequate personnel policies as required by its enabling legislation. CUC's calculation of premium pay has in some cases been inconsistent with, and in other cases not in compliance with, CUC's Personnel Manual and the Fair Labor Standards Act (FLSA). In addition, CUC has paid on-call and standby pay to certain employees even though such premium pay is not addressed in its Personnel Manual. CUC's personnel actions do not always disclose employee eligibility for premium pay. Finally, CUC gave exceptional ratings, salary increases, and promotions without written justification from management.

¹ In accordance with statutory restrictions in the Auditing and Ethics Acts, names of individuals are not disclosed in this report.

Accordingly, we recommended that CUC: (1) develop and adopt Personnel Rules and Regulations to cover promotion and salary increase justifications, and the various forms of premium pay it plans to use, as well as to conform to the requirements of the FLSA concerning computation of overtime; (2) require that its Comptroller correct CUC's overtime calculation practices to comply with the FLSA, finalize consultations with the local U.S. Wage and Hour Division on proper calculation of back wages, and pay employees for any previous underpayments; (3) obtain legal advice on possible legal issues concerning the elimination of hazardous duty pay, on-call, and standby pay to current and new employees so that CUC will not violate any labor laws; (4) seek legal determination on whether or not CUC should compensate employees who did not receive the full amount of hazardous duty pay due them; (5) seek legal determination on possible recovery regarding overpayment of annual and sick leave as a result of CUC imbedding hazardous duty pay, standby pay, and on call pay into base salaries; (6) seek legal determination to implement a policy consistent with FLSA to require executive, professional and administrative employees to time-in-and-out daily using CUC's biometric system; (7) issue a directive to all rating officials to ensure that exceptional ratings are properly justified in writing; and (8) require that all future salary increases are properly justified.

In its letter response dated December 10, 2002, (Appendix A), CUC agreed with one of our recommendations. Based on the letter, we consider Recommendation 2 closed since CUC has addressed overtime calculation in compliance with FLSA and provided adequate information to support the proper calculation and back pay of previously underpaid employees. Recommendations 1 and 3 thru 8 are considered open as CUC did not adequately respond to Recommendation 1, and did not respond to recommendations 3 through 8. Additional information or action required to close these recommendations is presented in Appendix B.

BACKGROUND

In the year 2001, OPA began planning an audit of CUC operations. After surveying selected CUC operations, OPA conducted four separate audits addressing CUC travel, personnel hiring, compensation, and procurement practices. This audit covers premium pay practices, overtime, and salary increases from October 1, 1999 through September 30, 2001².

Commonwealth Utilities Corporation

CNMI Public Law 4-47, the CUC Act (4 CMC §8111 et seq.), established CUC as a public corporation within the CNMI Government effective October 1, 1985. CUC is responsible for supervising the construction, maintenance, operation and regulation of all CNMI utility services, including power, sewerage, refuse collection, telephone, cable television, and water. It is governed by a Board of Directors (the Board) composed of eight members appointed by the Governor with

² In accordance with statutory restrictions in the Auditing and Ethics Acts, names of individuals are not disclosed in this report.

the advice and consent of the CNMI Senate. The CUC Board appoints an Executive Director who administers CUC operations on behalf of the Board.

The CUC Act in 4 CMC §8133(c) exempts CUC from CNMI Civil Service Regulations and authorizes it to develop, adopt, and administer its own merit personnel system. It further specifies that the Board will establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal of employees, and other rules and regulations.

CUC's Personnel Manual³ provides for various forms of premium pay including hazardous duty, night work, typhoon emergency, and overtime. More specifically:

- Employees qualifying for hazardous duty pay are entitled to receive a differential of 25 percent of their base salary rate.
- Night work entitles employees to a differential of 15 percent of their base salary rate if their regular work schedule is between 4:30 p.m. and 7:30 a.m.
- Work performed during a typhoon or tropical storm warrants compensation at 2.5 times an employee's base salary rate.

Although not addressed in CUC's Personnel Manual, CUC provides on-call and standby pay to certain employees at the rate of \$1.50 per hour and 20 percent, respectively.

In addition to these forms of premium pay, CUC's Personnel Manual also provides that employees may earn overtime pay for work in excess of 40 hours per week at the rate of 1.5 times their base pay. It also states that CUC may give an employee a salary increase after the end of his/her probationary period, and no sooner than six months after an earlier salary increase, provided the employee has maintained above-average performance. Although not addressed in its Personnel Manual, CUC provides the following forms of salary increases: within-grade increases, merit increases, and promotions. CUC's Executive Director approves all raises based on an employee's annual performance evaluation. CUC's human resources section provides internal procedures for processing such salary increases.

OBJECTIVE, SCOPE AND METHODOLOGY

The objectives of this audit were to determine whether: (1) CUC adopted adequate policies and procedures pertaining to premium pay, overtime, and salary increases, and (2) CUC practices for processing premium pay, overtime, and salary increases provided to its employees complied with applicable policies and procedures.

³ The Board approved CUC's Personnel Manual on May 1, 1995.

Our audit covered premium pay including hazardous duty pay, night differential, on-call pay, standby pay, as well as overtime and salary increases provided to employees from October 1, 1999, to September 30, 2001. In conducting our audit, OPA (1) reviewed CUC's Personnel Manual and applicable personnel policies; (2) examined documents in employees' personnel files such as personnel actions, time sheets, check stubs, and other supporting documents of selected CUC employees; and (3) interviewed responsible CUC officials and employees.

OPA performed its audit at CUC's office in Saipan from October 2001 to April 2002. The audit was made in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures as were necessary in the circumstances.

As part of our audit, OPA evaluated CUC's internal control over the processing of personnel documents and compliance with applicable personnel rules and regulations. We found weaknesses in these areas which are discussed in the Findings and Recommendations sections of this report. Our recommendations when implemented should improve controls in these areas.

PRIOR AUDIT COVERAGE

This is the last of a series of audits and studies OPA has recently conducted at CUC. During the last two years, OPA has issued the following reports:

- Audit of Travel by the Board of Directors, key management officials, and others during the period October 1999 through March 2001 (LT-01-07, dated November 23, 2001). In this audit, OPA found that CUC failed to comply with statutory requirements that Board members adopt travel policies similar to those of the CNMI government. Also, Board members, key management and others did not always comply with CNMI policies concerning economy class travel, granting and liquidating of travel advances, or providing supporting documentation. As a result, travel funds were held longer than allowable, unneeded costs were incurred for airline tickets, per diem and other travel expenses, and travel costs were not supported with proper documentation.
- Audit of Small Purchases from October 1, 1999 through March 31, 2001 (AR-02-01, dated August 27, 2002). In this audit, OPA found that CUC did not always comply with its procurement regulations applicable to small purchases. OPA found that purchase orders appeared to be artificially divided in order to avoid competitive requirements, purchase orders were issued after goods and services had been delivered, and that purchase orders were not adequately justified.
- Study addressing Procurement of Proposed 80/60 Megawatts Power Plant Project (M-02-08, dated October 7, 2002). In this compilation report, OPA discussed the key procurement events surrounding this proposed procurement and identified related CUC project costs.

- Audit of Personnel Hiring from October 1, 1999 through July 15, 2001 (AR-03-01, dated January 15, 2003). In this audit, OPA found that CUC failed to develop and adopt personnel rules and regulations based on a merit system, failed to hire employees based on merit, and therefore may not have hired the most qualified employees. To illustrate, 40 of 88 people hired were hired non-competitively and most were subsequently made permanent employees. CUC Board involvement in hiring actions tended to usurp management's role in daily operations. More specifically, the Board was involved in daily hiring of employees contrary to the authorization given to the Executive Director to manage operations. The Board apparently interpreted its role as going beyond policy and oversight to one of directly managing daily activities.

FINDINGS AND RECOMMENDATIONS

A. CUC Lacks Personnel Regulations, and Its Policies Do Not Address Premium Pay

CUC has failed to adopt personnel regulations as required by its enabling legislation. Instead, it has adopted its own Personnel Manual which has not been published in the Commonwealth Register as required. Consequently, the personnel policies do not have the force or effect of regulations.

These policies are incomplete and do not adequately address premium pay and other compensation practices such as on-call and standby pay, within-grade increases, merit increases, and promotions or provide criteria for written justification of exceptional performance ratings. They also do not address many of CUC's hiring practices such as hiring of employees under limited-term and provisional appointments as part of a selection process to implement a merit principle system. We discussed these in a separate audit report (AR 03-01, dated January 15, 2003). As a result of such incomplete guidance, CUC has engaged in the following practices:

- **On-Call and Standby Pay:** CUC paid a considerable amount of on-call and standby pay without having any guidance governing such pay. More specifically, CUC paid \$202,802 in on-call and standby pay in Fiscal Years 2000 and 2001 even though its Personnel Manual does not address such pay or explain who should receive it and how it should be computed. According to a CUC official, 67 of its 381 employees, or almost 18 percent, are receiving on-call pay at the rate of \$1.50 per hour for hours scheduled. Further, CUC compensated one official with standby pay of 20 percent of base salary for being available during non-working hours.
- **Promotions:** Because CUC's manual does not address promotions, it frequently promotes people without adequate justification. OPA reviewed 22 CUC promotion actions in Fiscal Years 2000 and 2001 and found six to be questionable.
 - Four employees were promoted without a written evaluation or recommendation from the Division Manager with one promotion based solely on the former Executive Director's instruction and another based on a board member's instruction;

- A central receptionist was promoted to a newly created position without a job vacancy announcement; and
- One employee was promoted despite a letter of reprimand received within the last 10 months directly related to the employee's performance.
- **Exceptional Performance Ratings:** CUC's Personnel Manual provides no criteria for justifying exceptional performance ratings. As a result, CUC's human resources personnel did not consistently require rating officials to provide written justification for exceptional employee ratings. Our review of 46 exceptional employee evaluation reports given in Fiscal Years 2000 and 2001 showed that 23 were not supported by written justifications. Since such ratings are to be used to reward and frequently compensate employees, they should be controlled based on established criteria and justified in writing. Failure to justify exceptional ratings could result in ratings being given to employees who do not merit such ratings.

Prior to becoming an autonomous agency CUC was governed, according to the CUC Comptroller, by CNMI Personnel Service System Rules and Regulations which cover both on-call and standby pay. However, when CUC adopted its own Personnel Manual in 1995, no provision was made for such pay premiums. Without written and complete policies and procedures, CUC managers have no standard for granting premium pay and salary increases to its employees.

CUC earlier advised that it was adopting comprehensive personnel rules and regulations which would provide employee promotion criteria. As drafted, they establish the major factors for determining promotions, provide that promotions will be awarded to the most qualified employees, and require that such employees be minimally qualified. Such proposed regulations did not, however, address on-call and standby pay.

B. Premium Pay Was Not Computed in Accordance with Premium Pay Policies

CUC's calculation of premium pay has in some cases been inconsistent with, and in other cases not in compliance with, CUC's Personnel Manual or the requirements of the Fair Labor Standards Act (FLSA). More specifically, CUC's calculation of overtime does not comply with the requirements of the FLSA, and hazardous duty payments do not comply with CUC's Personnel Manual. CUC's calculation methods have resulted in under-payments of premium pay to some employees, and excessive annual and sick leave payments to others.

1. ***Overtime computation is not in compliance with the requirements of the Fair Labor Standards Act***

While the CNMI Covenant exempts the Commonwealth from the minimum wage provisions of the FLSA, the overtime provisions of the FLSA and the Code of Federal Regulations (CFR) still apply in the CNMI. The FLSA and the CFR mandate that overtime shall be compensated at not less than 1.5 times the employee's "regular rate." They define the "regular rate" as all compensation an employee receives for work performed. More specifically, the CFR states:

The Act requires the inclusion in the regular rate of such extra premiums as night shift differentials (whether they take the form of a percent of the base rate or an addition of so many cents per hour) and premiums paid for hazardous, arduous or dirty work.

OPA found that CUC's computation of overtime did not comply with the CFR. More specifically, CUC calculated overtime based on *total number of overtime hours times base pay times 1.5* but did not include premium pay such as night differential and hazardous duty pay in the overtime compensation. To illustrate, we selected one CUC employee with a base rate of \$9.34 who worked 126 hours during a pay period which consisted of:

- 24 hours of night differential pay,
- 126 hours of hazardous duty pay, and
- 46 hours of overtime pay.

Based on CUC's computation, the employee received a payment of \$644.46 for overtime. If night differential and hazardous duty pay had been included in the base for computing overtime as required by the CFR, this employee would have been entitled to additional overtime pay of \$59.80, or a total of \$704.26 during the pay period. This occurred because CUC's Personnel Manual only provides for overtime to be computed at the base rate, multiplied by 1.5, and explicitly excludes premium pay, as follows:

All employees below the level of Division Manager are eligible for overtime compensation at the rate of one and one-half hours' pay for an hour actually worked in excess of 40 hours per week. Compensation shall be computed at 1.5 times base salary. *Premium pay shall not be included in the overtime basis.* Overtime compensation will be computed in the manner determined by the Commonwealth Utilities Corporation Office of Personnel Management... (Emphasis added.)

CUC's failure to include premium pay in overtime calculations violates the FLSA and entitles employees to back wages. According to the FLSA, any failure to compensate employees properly based on an unintentional error subjects the employer to liability for the previous two years of improper payments.

OPA brought this matter to CUC's attention on March 6, 2002, and suggested that CUC immediately review this matter and consider: (1) including it in its proposed personnel regulations, (2) correcting overtime calculation practices to comply with the FLSA, and (3) consulting directly with the local U.S. Wage and Hour Division located in Saipan to seek assistance on proper calculation of back wages.

CUC subsequently coordinated this matter with the U.S. Wage and Hour Division, and has calculated additional back wages totalling \$93,986 to be paid to employees for the two year period ending March 8, 2002 as additional compensation for previous under-payments. CUC advised us that it is currently modifying its payroll system and adopting personnel rules and regulations to comply with the FLSA.

2. Hazardous duty rates did not comply with CUC's Personnel Manual

CUC's Personnel Manual prescribes that certain employees will be paid for hazardous duty. More specifically it states that:

All employees whose occupation involves unusual and extreme hazards to their health and safety shall be paid a differential of twenty-five percent (25%) of their base salary rate. All requests for hazardous pay must be justified by the requesting official(s).

Exposure to the particular hazard must constitute a reasonable proportion of the employee's time on the job so that it is clearly recognizable that the position is hazardous. Hazard may occur for a brief period of time, but collectively measured over a period of time, e.g., one day, may provide a valid basis for recognition of the hazard. Conversely, clear and sustained exposure to an unusual and extreme hazard is more readily recognizable and measurable.

Although CUC's Personnel Manual prescribes a hazardous duty rate of 25 percent, our audit showed that CUC did not provide the full rate to many of its employees. OPA tested 24 of 177 employees receiving hazardous duty pay in Fiscal Years 2000 and 2001 and found that 10 had not received the full rate prescribed by CUC's manual, with nine employees receiving 17 percent or less. OPA also learned that CUC did not have any guidelines or list of positions to receive hazardous duty pay. According to CUC human resources personnel, new hires receive the hazardous duty rate or other premium pay based on the vacated position or instructions from Division Managers.

In addition, annual and sick leave payments to CUC employees were inflated, equal to a percentage increase in the base pay rate, due to CUC imbedding of hazardous duty in base pay. Our tests of 15 employees receiving hazardous duty pay showed that the annual leave of all 15 was inflated because of this premium. As a result, CUC paid \$13,952 in hazardous duty pay to employees while they were on leave in Fiscal Years 2000 and 2001. Likewise, our tests of 19 employees receiving on-call pay and one employee receiving standby pay showed

that because on-call pay for 4 officials and standby pay for one official was imbedded in their base salary, their leave payments were inflated by \$7,313.

According to the former CUC Executive Director, CUC had previously studied positions subject to a hazard and provided different rates to different positions. The rates paid to employees were neither adopted by the Board nor supported by a study. OPA's review of CUC's proposed personnel regulations indicates that they contain no provision for hazardous duty pay. According to the CUC Comptroller, CUC wants to eliminate it.

C. CUC granted salary increases without proper justification

CUC gave salary increases to some employees without any written evaluation from management. CUC's Personnel Manual specifies conditions for granting salary increases to its employees. It states that an employee is eligible for a salary increase, provided that his/her probationary employment period has ended or 6 months have elapsed from any previous salary increase, both on the condition that the employee has received an evaluation of sustained above-average performance. In approving such increases, the Executive Director must consider employees' annual evaluations. OPA found, however, that of the 27 employees receiving salary increases, four increases were accompanied by neither a written evaluation nor a written justification as shown below.

No.	Old Salary	New Salary	Amount of Increase
Employee 1	\$16,651.51	\$20,000.00	\$3,348.49
Employee 2	\$18,548.87	\$20,000.00	\$1,451.13
Employee 3	\$54,000.00	\$62,000.00	\$8,000.00
Employee 4	\$43,000.00	\$47,000.00	\$4,000.00

- Employees 1 and 2 received salary increases without any written evaluation or written recommendation from division management; the increase was instead based on a memorandum issued by the former Executive Director which provided no justification even though the human resources manager had requested him to justify such increase.
- Employee 3, pursuant to his request, received a salary increase from the former Executive Director in lieu of imbedded on-call pay.
- Employee 4 was given a salary increase after only one month on the job pursuant to a board member's instructions.

These seemingly inappropriate salary increases occurred because CUC's former Executive Director failed to follow guidance provided in CUC's Personnel Manual.

D. Certain CUC employees are not timing-in-and-out

CUC has adopted a biometric system to account for employees time during a work week. Under such system, an automated clock tracks CUC employees' time-in-and-out daily. CUC's Personnel Manual, however, exempts CUC executive, administrative, and professional employees, as designated by the Executive Director, from having to use this system. OPA reviewed time-in-and-out procedures for 57 employees and noted that 25, or almost 50 percent, were exempted from using the biometric system. Further examination of these 25 employees disclosed that all were managerial or professional employees.

FLSA provides that employees of "public agencies" which meet certain requirements can deduct absences of less than 8 hours from salaries of FLSA-exempt employees under certain conditions. The determination of lost time cannot be efficiently and accurately performed without documenting exempt employees' daily-time-in-and-out.

The practice of not requiring employees to either account for their regular work hours or time-in or time-out could result in employees' abuse of time, such as:

- employees not reporting for work and still getting paid for 80 regular hours per pay period,
- employees reporting for work but leaving during the day and still getting paid for 80 regular hours per pay period, or
- employees' tardiness becoming habitual.

OTHER MATTERS

CUC human resource personnel did not process employee personnel actions in a timely manner. According to human resource personnel, they initiate personnel actions either upon the request of a division manager or the employee, or after manually reviewing each employee's personnel file for anniversary hiring or promotion date. OPA found that 17 of the 78 personnel actions reviewed were processed four months to three years after the anniversary date of the personnel action. According to human resources personnel, such personnel actions were not processed timely because although they input anniversary date information into the Abra system,⁴ they do not know how to retrieve reports of such system data, and consequently do not have information to monitor an employee's anniversary date. Also, some delays were due to late receipt of performance evaluation reports from rating officials. While these actions are frequently processed late, they are made retroactive to the anniversary date resulting in no financial loss to the employee.

⁴ Automated human resource file management system used only by the CUC human resource division.

In addition, CUC personnel actions do not always disclose employee eligibility for premium pay with the result that employees may not be aware of such eligibility. Of 115 personnel actions reviewed, 17 actions, or about 15 percent, did not disclose employee eligibility for certain premium pay. To illustrate:

- Twelve personnel actions did not disclose eligibility to receive hazardous premium pay.
- One personnel action did not disclose eligibility to receive night differential.
- Four personnel actions did not disclose whether employees were eligible for overtime.

Although human resources personnel advised us that these employees were entitled to such premium pay, they did not include needed information on the personnel action form, either because hazardous premium pay was instead imbedded in the employee's salary or because of an oversight on their part.

CONCLUSIONS AND RECOMMENDATIONS

CUC failed to develop and adopt adequate personnel policies as required by its enabling legislation. CUC's calculation of premium pay has in some cases been inconsistent with, and in other cases not in compliance with, CUC's Personnel Manual and the Fair Labor Standards Act. In addition, CUC has paid on-call and standby pay to certain employees even though such premium pay is not addressed in its Personnel Manual. CUC's personnel actions do not always disclose employee eligibility for premium pay. Finally, CUC gave exceptional ratings, salary increases, and promotions without written justification from management.

Accordingly, we recommend that CUC:

- 1) develop and adopt Personnel Rules and Regulations to cover promotion and salary increase justifications, and the various forms of premium pay it plans to use, as well as to conform to the requirements of the Fair Labor Standards Act (FLSA) concerning computation of overtime;
- 2) require that its Comptroller correct CUC's overtime calculation practices to comply with the FLSA, finalize consultations with the local U.S. Wage and Hour Division on proper calculation of back wages, and pay employees for any previous under-payments;
- 3) obtain legal advice on possible legal issues concerning the elimination of hazardous duty pay, on-call and standby pay to current and new employees so that CUC will not violate any labor laws;
- 4) seek legal determination on whether or not CUC should compensate employees who did not receive the full amount of hazardous duty pay due them;

- 5) seek legal determination on possible recovery regarding overpayment of annual and sick leave as a result of CUC imbedding hazardous duty pay, standby pay, and on-call pay into base salaries;
- 6) seek legal determination to implement a policy consistent with FLSA to require executive, professional and administrative employees to time-in-and-out daily using CUC's biometric system;
- 7) issue a directive to all rating officials to ensure that exceptional ratings are properly justified in writing; and
- 8) require that all future salary increases are properly justified.

Commonwealth Utilities Corporation Response

In its letter response dated December 10, 2002, (Appendix A), CUC agreed with one of our recommendations in the draft report, did not adequately respond to one, and failed to respond to the remaining six recommendations. For Recommendation 1, CUC stated that it is developing its own Human Resources Policies and Procedure which will be adopted at its next board meeting. CUC has not, however, promulgated these policies and procedures as regulations. Further, the policies being developed do not address justification for promotions and salary increases or the various forms of premium pay. For Recommendation 2, CUC addressed the calculation of overtime in compliance with FLSA in its draft Human Resource Policies and Procedures, and provided OPA with a listing of employee's proper overtime calculation and check numbers to support payment of back pay to underpaid employees. CUC did not adequately respond to Recommendation 1, and did not respond to recommendations 3 through 8.

OPA Comments

We commend CUC for its prompt action to correct the calculation of overtime in accordance to the FLSA and prompt repayment of back-wages to its employees. However, based on the letter response from CUC, we consider Recommendations 1 and 3 through 8 open as CUC did not respond, or adequately respond, to these recommendations. The additional information or action required to close the recommendations is presented in Appendix B.

* * *

Our office has implemented an audit recommendation tracking system. All audit recommendations will be included in the tracking system as open or resolved until we have received evidence that the recommendations have been implemented. An open recommendation is one where no action or plan of action has been made by the client (department or agency). A resolved recommendation is one in which the auditors are satisfied that the client cannot take immediate action, but has established a reasonable plan and time frame of action. A closed recommendation is one in which the client has taken sufficient action to meet the intent of the recommendation or we have withdrawn it.

Please provide to us the status of recommendation implementation within 30 days along with documentation showing the specific actions that were taken. If corrective actions will take longer than 30 days, please provide us additional information every 60 days until we notify you that the recommendation has been closed.

Sincerely,

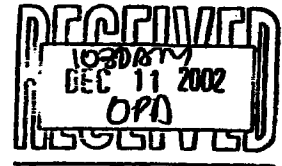


Michael S. Sablan, CPA
Public Auditor

cc: Governor
Lt. Governor
Thirteenth CNMI Legislature (27 copies)
Comptroller, Commonwealth Utilities Corporation
Secretary of Finance
Special Assistant for Management and Budget
Attorney General
Press Secretary



Commonwealth Utilities Corporation



December 10, 2002

Michael S. Sablan, CPA
Public Auditor
P. O. Box 501399
Saipan, MP 96950-1399

Dear Mr. Sablan:

Subject: Response to the Premium Pay and Salary Increases and Hiring Practices Audits for the Commonwealth Utilities Corporation

Enclosed is a draft Human Resource Policies and Procedures, which is different from what you have previously seen. This is a working document, which the Human Resources Office, Legal Department, Executive Director, Board Chairman, and the Board Personnel Committee have been reviewing. It is expected that the document, in a revised form, will be passed in the next Board meeting. A copy of the revised format will also be provided to your office.

After the Board has adopted the Human Resource Policies and Procedures, a copy will be provided to the Office of the Attorney General for review, with notification to the employees of the availability of copies in Human Resources for comment. Once the Office of the Attorney General has completed their review for legal sufficiency, with revisions made, then the regulations will be published for public comment in the Commonwealth Register.

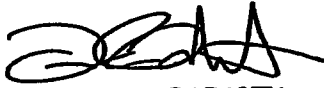
Please note that this document does not include the Classification and Compensation System, which is also being developed. It is the intention of the Board to have adopted the referenced policies and procedures and systems by January 2, 2003.

Should your office have any recommendations after reviewing the documents, please feel free to comment. CUC takes very seriously its obligation in the establishment of a merit personnel system that rewards productivity and service, provides management flexibility, and includes provisions for employees to appeal serious disciplinary action.

D. O. Box 501220 CK • Third Floor, Joeten Bandan Building

It is hoped that this communication addresses your concerns. Should you have any further questions, please feel free to contact our office.

Sincerely,



LORRAINE A. BABAUTA
Executive Director

Enclosure

cc: Board of Directors
Legal Department
Human Resources Office

**Commonwealth Utilities Corporation
Audit of Premium Pay, Overtime, and Salary Increases
from October 9, 1999 Through September 30, 2001**

STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/ Action Required
1. Develop and adopt Personnel Rules and Regulations to cover promotion and salary increase justifications, and the various forms of premium pay it plans to use, as well as to conform to the requirements of the Fair Labor Standards Act concerning computation of overtime.	CUC	Open	CUC stated that it is developing its own Human Resources Policies and Procedure which will be adopted in its next board meeting, however it did not address promotions and salary increase justifications as well as various forms of premium pay it plans to use. <i>Further Actions Needed</i> CUC has not promulgated these policies and procedures as regulations. Also, CUC needs to address promotions and salary increase justifications as well as various forms of premium pay in its regulations.
2. Require that CUC's Comptroller correct CUC's overtime calculation practice to comply with the FLSA, finalize consultations with the local U.S. Wage and Hour Division on proper calculation of back wages, and pay employees for any previous under payments.	CUC	Closed	According to a March 15, 2002 memorandum, CUC coordinated with Federal Wage and Hours Division officials to calculate overtime in compliance with the FLSA. CUC also provided OPA a listing of employee's proper overtime calculation and check numbers to support payment of back pay to its underpaid employees.
3. Obtain legal determination of the elimination of hazardous duty pay, on-call, and standby pay to current and new employees so that CUC will not violate any labor laws.	CUC	Open	CUC did not respond to recommendations 3 through 8.
4. Obtain legal determination on whether or not CUC should compensate employees who did not receive the full amount of hazardous duty pay due them.	CUC	Open	
5. Obtain legal determination on possible recovery regarding overpayment of annual and sick leave as a result of CUC imbedding hazardous duty pay, standby pay and on call pay in base salaries.	CUC	Open	
6. Seek legal determination to implement a policy consistent with FLSA to require executive, professional and administrative employees to time-in-and-out daily using CUC's biometric system.	CUC	Open	
7. Issue a directive to all rating officials to ensure that exceptional ratings are properly justified in writing.	UC	Open	
8. Require that all future salary increases are properly justified.	CUC	Open	

