

The Virgin Islands Consortium

If Federal Loans To WAPA Are Not Forgiven, Authority Says It Would Need To Raise Utility Rates

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WAPA boss Lawrence Kupfer said during a hearing on Tuesday that peradventure its Community Disaster Loans (C.D.L.) provided by the federal government following Hurricanes Irma and Maria, were not eventually forgiven, WAPA would have to petition the Public Services Commission to raise utility rates to pay for the loans.

Mr. Kupfer was responding to a question posed by Senator Nereida Rivera-O'Reilly during a hearing in the Committee on Finance.

On July 1, 2018, [WAPA raised utility rates](#) approximately four cents per kilowatt hour. According to the authority, the change represented an increase of approximately \$16 for

a residential customer utilizing 400-kilowatt hours per month.

It is important to note that [federal disaster loans are generally forgiven](#) over a period of time. However, that's not always the case, and with the U.S. Treasury [seeking first-priority lien security from the local government](#) to ascertain repayment, it is not guaranteed that the C.D.L. loans to WAPA to rebuild its infrastructure, or to the government for operating purposes, will be forgiven.

The meeting was held for testimony on Bill No. 32-0312, which seeks to raise WAPA's debt ceiling from \$500 million to \$750,000 million. The measure was approved and forwarded to the Committee on Rules and Judiciary.

Mr. Kupfer explained that the limit expansion was being pursued because of an accounting change that affects its agreement with VITOL, and for C.D.L. loan purposes, not because WAPA seeks to incur additional debt.

"While the authority is seeking an increase in the debt limit due to the change in accounting rules which includes a significant capital lease obligation not historically included as debt, as well as the unexpected Community Disaster Loans, this proposed increase in the debt limit in no way increases the authority's financial capacity to incur debt or affect or alter the authority's contractual obligations under its bond resolutions regarding the issuance of additional bonds or additional debt," Mr. Kupfer said.

WAPA debt obligation to VITOL totals \$160 million, part of which must now be included in the debt ceiling because of market accounting changes. According to Mr. Kupfer, WAPA's auditors had previously treated the VITOL agreement as a lease agreement and not part of the authority's long-term debt.

"Although the VITOL agreement explicitly recites the parties' intention that the lease agreement not be treated as debt, the heightened sensitivity to clarifying what constitutes a capital lease (versus an operating lease) required additional focus," said Mr. Kupfer. "Upon further review, for purposes of the authority's statutory debt limit, the portion of the VITOL agreement constituting a capital lease payment (i.e., the principal portion of the Infrastructure Recovery Fee) must be included as debt for purposes of the authority's debt limit."

Relative to disaster funding, WAPA has received \$91 million in C.D.L. loans so far, and it is expected to seek additional funding from the federal government. With the C.D.L. loan obligation included, WAPA's statutory debt totals \$556.8 million, roughly \$56 million over the debt limit. Without the C.D.L. loans, the authority's statutory debt is \$465.8 million.

"We want to emphasize that the authority continues to be in compliance with the existing debt limit due to the exception established under the federal law authorizing the Community Disaster Loans," Mr. Kupfer said in his testimony. "However, with the exception of Community Disaster Loans, the authority cannot finance any additional debt at this time under its existing debt limit."

WAPA bond counsel Patricia Goins said funding from the C.D.L. continues to enable WAPA to provide "essential electric and water services." Citing the Appropriation Act of 1976, part of which reads, "notwithstanding any other provisions of law or the constitution of a territory or possession that limits the issuance of debt, or territory or possession, and

instrumentalities and local governments thereof may each receive more than one loan," Ms. Goins said WAPA could lawfully obtain additional C.D.L. loans from the federal government. However, these loans must be included in WAPA's debt obligation.

Feature Image: WAPA Executive Director Lawrence Kupfer. (Credit: USVI Legislature)

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