

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lieutenant Governor

31 AUG 2012

Honorable Eliceo D. Cabrera
Speaker, House of Representatives
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Honorable Paul A. Manglona
Senate President, The Senate
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 17-214, SS1, SD1, CCD1 entitled, "To amend 4 CMC §§ 8403(e) & (g), 8407(d), 8454(d) and 8483 of the Public Utilities Commission Act of 2006; and for other purposes," which was passed by the House of Representatives and the Senate of the Seventeenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 17-81**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Eloy S. Inos".

ELOY S. INOS
Acting Governor

cc: Governor; Attorney General's Office; Press Secretary; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



The House of Representatives
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. Box 500586
Saipan, MP 96950

August 15, 2012

The Honorable Eloy S. Inos
Acting Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Acting Governor Inos:

I have the honor of transmitting herewith for your action **H. B. 17-214, SS1 SD1, CCD1**, entitled: "To amend 4 CMC §§ 8403(e) & (g), 8407(d), 8454(d) and 8483 of the Public Utilities Commission Act of 2006; and for other purposes.", which was passed by the House of Representatives and the Senate of the Seventeenth Northern Marianas Commonwealth Legislature.

Sincerely yours,



Linda B. Muña
House Clerk

Attachment



*Seventeenth Legislature
of the
Commonwealth of the Northern Mariana Islands*

IN THE HOUSE OF REPRESENTATIVES

Fourth Regular Session

August 26, 2012

Representative Stanley T. McGinnis Torres, of Saipan, Precinct 3 (*for himself*) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. 17-214

AN ACT

TO AMEND 4 CMC, DIVISION 8, CHAPTER 4, §8407, "THE COMMONWEALTH PUBLIC UTILITIES COMMISSION ACT OF 2008".

The Bill was referred to the House Committee on Public Utilities, Transportation, and Communications, which submitted Standing Committee Report 17-98 which was adopted on September 15, 2012.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, SEPTEMBER 15, 2011;
without amendments and transmitted to the
THE SENATE.**

The Bill was referred to the Senate Committee on Public Utilities, Transportation, and Communications, and was placed on the Bill Calendar.

**THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, MARCH 7, 2012;
with amendments in the form of H. B. 17-214, SS1, SD1.**

H. B. 17-214, SS1, SD1 WAS RETURNED TO THE HOUSE OF REPRESENTATIVES ON MARCH 9, 2012.

The House of Representatives rejected the Senate amendments and the Bill was sent to Conference, which submitted Conference Committee Report 17-12 in the form of H. B. 17-214, SS1, SD1, CCD1.

**THE BILL WAS FINALLY PASSED BY THE HOUSE OF REPRESENTATIVES ON AUGUST 3, 2012 AND BY
THE SENATE ON AUGUST 8, 2012.**



Linda B. Muña, House Clerk



*Seventeenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

**1st Day, Sixth Regular Session
August 3, 2012**

H. B. 17-214, SSI, SD1, CCD1

AN ACT

**TO AMEND 4 CMC §§ 8403(E)&(G), 8407(D), 8454(D) AND 8483 OF
THE PUBLIC UTILITIES COMMISSION ACT OF 2006; AND FOR
OTHER PURPOSES.**

**Be it enacted by the Seventeenth Northern Marianas Commonwealth
Legislature:**

1 **Section 1. Findings and Purpose.** The Commonwealth Legislature finds that the
2 Commonwealth Public Utilities Commission Act of 2006, in particular 4 CMC §8407 of the
3 Commonwealth Code, was amended in 2008 by Public Law 16-2, Section 12, subsection (c),
4 in order to establish the official commencement of the Public Utilities Commission's (PUC)
5 duties and operations. This commencement of PUC's duties and operations was deemed
6 activated once three Commissioners had been duly appointed and confirmed.

7 The Legislature further finds that Public Law 16-2 took one step further in amending
8 4 CMC §8407 by adding a subsection (d), which undermined the original legal mandate of
9 the Commonwealth Public Utilities Commission Act of 2006 {4 CMC §8403(a) &

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1 §8407(b)}, which stated that at least three of the five mandated commissioners shall be
2 present to constitute a quorum for the Commission to act or issue a decision. The added
3 subsection (d) to 4 CMC §8407, states: “Notwithstanding subsection (b), once three
4 Commissioners have been appointed and confirmed, any event, be it resignation, removal, or
5 otherwise, which reduces the number of Commissioners below three shall not divest the
6 Commission of its authority, and the PUC shall continue its duties shorthanded until such a
7 time as additional commissioners have been duly appointed and confirmed. If, for any reason,
8 the Commission consists of only two Commissioners, then a quorum for the conduct of the
9 PUC’s business shall be two and decisions shall be unanimous until such a time as an
10 additional Commissioner or Commissioners shall be duly appointed and confirmed. If the
11 Commission consists of a sole Commissioner, then a quorum for the conduct of the
12 Commission’s business shall be one, whose decisions, rules, or orders shall be valid and
13 effective for not more than 60 days, unless extended for an additional 30 days upon a finding
14 that the extension is in the best interest of the public.” This additional subsection (d) creates a
15 potential for a continuously diluted Commission, which could continue its duties with any
16 number below three, e-g., two, one, or “zero”.”

17 The Legislature also finds that the intent of P.L. 16-2 to keep the PUC functioning in
18 case of a “shorthanded” commission does not outweigh the importance of having a full five-
19 member commission, or a bona fide three-member quorum, to conduct the PUCs business in
20 a more fair, impartial, and professional manner. The monitoring and regulating of our public
21 utilities is such a critical issue in the CNMI, with the skyrocketing and at times falling fuel
22 costs, the rising but sometimes not falling electrical costs, and a convoluted LEAC system

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1 that supposedly adjusts the CUC customer costs to the prevailing price of oil. Therefore, in
2 the best interests of the people of the Commonwealth and to possibly avoid costly legal
3 arguments, an re-enactment of (c) and a repeal of subsection (d) of 4 CMC §8407 is
4 justifiable and most prudent.

5 The Legislature further finds that other provisions of the Public Utilities Commission
6 Act must also be amended in order to improve the Act. First, it is necessary to amend 4
7 CMC § 8403(e)&(g) to eliminate the restriction of a government employee being appointed
8 to the Commission and to change the education requirement of a commissioner to a two-year
9 academic degree because it has been difficult to appoint qualified persons to the Commission
10 who are not employed by the government or possess at least a four-year academic degree.
11 Second, 4 CMC §§ 8454(d) and 8483 to require all regulated entities to pay the annual charge
12 imposed by the Commission in order to level the playing field. However, television
13 companies may be given a discount in exchange for providing at least 12 hours of public,
14 educational, and governmental access channel for free for the public.

15 **Section 2. Amendment.** 4 CMC § 8403(e) and (g), as amended by Public Law 17-
16 34, are amended to read as follows:

17 **“§ 8403. Public Utilities Commission: Establishment and Commissioners.**

18 (e) No Commissioner shall be an employee of any entity regulated by the
19 Commission, nor may a commissioner serve as a consultant to any entity regulated by
20 the Commission, nor may a commissioner serve as a member of any other
21 government board or commission. Acceptance by a Commissioner of any position in
22 violation of this section automatically terminates that persons term of office.

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(g) A commissioner shall be qualified to vote in the Commonwealth, be at least twenty-five years of age, and a resident and domiciliary of the Commonwealth for at least five years immediately preceding the date on which the members takes office. All commissioners shall have at least graduated from an accredited university or college with a two-year academic degree and at least two years of managerial experience.”

Section 3. Amendment. 4 CMC § 8407(d) is hereby repealed and reenacted to read as follows:

“§ 8407. Operation of Commission: Additional.

(d) Notwithstanding any other provision of law or any provision of any executive order, any pending business of the Public Utilities Commission prior to the enactment of this Act shall remain valid until such time that the Commission is able to meet quorum and takes action upon such business. If, for any reason, the Commission fails to meet quorum, all pending business shall remain valid until such time that the Commission is able to meet quorum and takes action upon such business.”

Section 4. Amendment. 4 CMC § 8454(d) is hereby amended to read as follows:

“8454. Certification of Public Utility Companies

(d) *Existing Franchises.* The Commonwealth Utilities Corporation shall not be required to obtain a certificate of public convenience and necessity from the Commission but be subject to Section 8426 of this Chapter. In the event that the Commonwealth Utilities Corporation privatizes its power, water, or sewer division,

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1 the private company or contractor that operates the power, water, or sewer division
2 shall be required to obtain a certificate of public convenience and necessity from the
3 Commission and be subject to Section 8426 of this Chapter.”

4 **Section 5. Amendment.** 4 CMC § 8483 is hereby repealed and reenacted to read as
5 follows:

6 **“§ 8483. Public, Educational, Governmental Access Channel.**

7 Cable television companies shall be subject to Section 8426 of this Chapter;
8 provided that cable television companies may be eligible for a discounted annual
9 charge imposed by Section 8426(c) of this Chapter as determined by the Commission
10 if the company at all times shall provide, operate and make available cable television
11 free of charge to public hospitals and clinics operating 24 hours a day and at least one
12 public, education, government access television channel to be selected from any
13 channel in the 2 through 14 range of channels dedicated to local programming for a
14 period of at least 12 hours per day (9:00 am to 9:00 pm), free of charge to its cable
15 television customers. No cost shall be charged against any person for the
16 sponsorship, transmission or dissemination of a program whose content or production
17 is directly or substantially paid for or supported by public funds.”

18 **Section 6. Severability.** If any provisions of this Act or the application of any such
19 provision to any person or circumstance should be held invalid by a court of competent
20 jurisdiction, the remainder of this Act or the application of its provisions to persons or
21 circumstances other than those to which it is held invalid shall not be affected thereby.

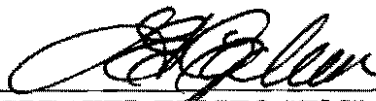
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1 **Section 7. Savings Clause.** This Act and any repealer contained herein shall not be
2 construed as affecting any existing right acquired under contract or acquired under statutes
3 repealed or under any rule, regulation, or order adopted under the statutes. Repealers
4 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
5 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
6 any liability, civil or criminal, which shall already be in existence on the date this Act
7 becomes effective.

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1 **Section 8. Effective Date.** This Act shall take effect upon its approval by the
2 Governor, or its becoming law without such approval.

Attested to by: 
Linda B. Muña, House Clerk

Certified by: 
SPEAKER ELICEO "ELI" D. CABRERA
House of Representatives
17th Northern Marianas Commonwealth Legislature

~~APPROVED~~ this 31ST day of AUGUST, 2012


ELOY S. INOS
Acting Governor
Commonwealth of the Northern Mariana Islands