



**Public Law No. 15-35**  
**HOUSE BILL NO. 15-55, HS2, HD3, SD1**

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1 (d) 'Person' means any individual, corporation, partnership, association,  
2 business trust, company, joint venture company, limited liability company,  
3 government or government subdivision, corporation, or agency, or any other legal  
4 entity.

5 (e) 'Public Utility' means the Commonwealth Utilities Corporation, and any  
6 duly licensed private contractor operating:

7 (1) a facility or subsystem of the community-wide water production  
8 and distribution system or electrical production and/or distribution system; or

9 (2) a facility or subsystem of the community-wide waste water disposal  
10 system, or both.

11 (f) 'Regulated Entity or Entities' or 'Entity' means all persons regulated by the  
12 Commission, including public utilities, telecommunications companies and the cable  
13 television companies.

14 (g) 'Telecommunications Company' means any person or corporation that  
15 owns, controls, administers, operates, manages, provides or resells, in full or in part,  
16 directly or indirectly, any telecommunications line system or service in the  
17 Commonwealth.

18 (h) 'Telecommunications Service' means the transmission between or among  
19 points specified by the user, of information of the user's choosing, without change in  
20 the form or content of the information sent and received, for a fee directly to the  
21 public, or to such classes of users as to be effectively available directly to the public,  
22 regardless of the facilities used.

23 § 8403. *Public Utilities Commission: Establishment and Commissioners.*

24 (a) There is established in the Commonwealth government the Public Utilities  
25 Commission, a regulatory agency, in accordance with Article III, Section 15 of the  
26 Commonwealth Constitution. The Commission shall be an independent agency  
27 within the executive branch of the Commonwealth government and not part of any  
28 principal department. The Commission shall be composed of five (5) members to be  
29 called Commissioners. The Governor, with the confirmation of both the Senate and  
30 the House of Representatives of the Commonwealth Legislature, shall appoint all five

1 members; at least one of whom shall have training and experience in the field of  
2 telephone, water, or sewer utilities management; at least one member with managerial  
3 or engineering experience in the field of power generation; at least one member with  
4 telephone or cable television experience; and at least one member who is a certified  
5 public accountant. At least one (1) Commissioner shall reside on Tinian, one (1)  
6 Commissioner shall reside on Rota, and at least three (3) Commissioners shall reside  
7 on Saipan.

8 (b) All commissioners shall serve terms of four (4) years. Provided, at the first  
9 meeting of the commission, the first commissioners shall draw lots determining the  
10 terms of the first Commissioners; two (2) shall serve terms of two (2) years, and three  
11 (3) shall serve terms of four (4) years.

12 (c) Any vacancy occurring in the membership of the Commission during a  
13 term shall be filled by the Governor by appointing a person consistent with subsection  
14 (a) of this section to serve out the remaining portion of the vacated term. Such time in  
15 service shall not count towards the two term limitation in subsection (d) of this  
16 section.

17 (d) No Commissioner may serve more than two (2) terms.

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

24 (f) When there is a change of administration of the government of the  
25 Commonwealth after a gubernatorial election, no courtesy resignation shall be  
26 requested by the new administration of the government nor offered by any  
27 Commissioner.

28 (g) A Commissioner shall be qualified to vote in the Commonwealth, be at  
29 least twenty-five years of age, and a resident and domiciliary of the Commonwealth  
30 for at least five years immediately preceding the date on which the member takes

1 office. All commissioners shall have at least graduated from an accredited university  
2 or college with a four-year academic degree.

3 (h) The members of the Commission shall elect a chairperson.

4 (i) The Commission may suspend for cause any member of the Commission  
5 after due notice and public hearing.

6 (j) No person owning any bonds of any entity regulated by the Commission or  
7 deriving any remuneration from any entity regulated by the Commission shall be  
8 eligible to serve as a Commissioner or be employed by the Commission. Further, no  
9 person who is an officer or director, or who owns a financial interest in a corporation  
10 or partnership doing business with a regulated utility shall be eligible to serve as a  
11 Commissioner or be employed by the Commission.

12 (k) No Commissioner shall during the two (2) years immediately following  
13 termination of service on the Commission be employed by any entity that is regulated  
14 by the Commission.

15 § 8404. *Compensation of Commissioners.* The Commissioners shall be compensated  
16 pursuant to the provisions of 1 CMC § 8247 plus travel costs and per diem, if applicable for  
17 the purpose of attending official Commission meetings. Rules and rates for official travel  
18 and per diem shall be the same as those established for the executive branch.

19 § 8405. *Cause for Dismissal.* In accordance with Article III, Section 21 of the NMI  
20 Constitution, the Governor may dismiss a Commissioner only for one or more of the  
21 following causes: (a) gross neglect or dereliction of duty; (b) breach of fiduciary duty; (c)  
22 conviction of a felony; or (d) mental or physical incapacity.

23 § 8406. *Operation of Commission.*

24 (a) The Commission may employ agents, employees, hearing examiners, or  
25 contract for services, specialists, experts, or professionals as individuals or as  
26 organizations to advise and assist the Commission and its employees. The  
27 Commission may appoint an executive director who shall serve at the pleasure of the  
28 Commission and may be dismissed with or without cause by the majority vote of the  
29 Commission. The executive director shall be compensated pursuant to the provisions  
30 of 1 CMC § 8246. The Commonwealth Civil Service Act [1 CMC § 8101 et seq.]

1 shall apply to all administrative or clerical employees of the Commission. All other  
2 employees shall be exempt from the application of the Commonwealth Civil Service  
3 Act.

4 (b) The Commission may retain an attorney, who shall serve at the pleasure of  
5 the Commission and whose duties shall be fixed by the Commission; provided that  
6 the attorney shall not act as the Commission's hearing examiner. The attorney, shall  
7 be admitted to practice before the Supreme Court of the Commonwealth of the  
8 Northern Mariana Islands, shall advise the Commission on all legal matters to which  
9 the Commission is legally interested and may represent the Commission in connection  
10 with legal matters before the legislature, the courts of the Commonwealth,  
11 government boards, and other agencies of the Commonwealth. The Commission is  
12 authorized to establish by rule or order that each entity regulated under this Chapter  
13 shall be assessed the costs incurred by the Commission for professional services  
14 rendered by the attorney. The attorney shall have the power to review and approve  
15 contracts for legal form and sufficiency in accordance with the procurement laws of  
16 the Commonwealth.

17 (c) If a regulated entity's determination is reversed by the Commission, then  
18 the Commission shall award reasonable attorney's fees to the customer and costs. The  
19 remedies contained in this Chapter are not exclusive and the customer may, at the  
20 customer's sole option, pursue any other remedies available at law.

21 § 8407. *Operation of Commission-Additional.*

22 (a) Notwithstanding any other provision of law, the Commission may meet for  
23 purposes of gathering information on entities and requesting, demanding, and  
24 accepting reports and documents from regulated entities, and for other purposes. The  
25 Commission may continue in limited operation, as funds are available or on a  
26 volunteer basis, for purposes of monitoring the regulated entities and making such  
27 orders, rules, and regulations, as may be appropriate to monitor such agencies and  
28 ensure compliance with orders of the Commission. Financial documents and reports  
29 submitted to the Commission are hereby declared to be public documents.



1           (e) Conduct such investigation and hearings as to any request for rate change  
2 to determine if the change is necessary. No rate change may be approved by the  
3 Commission unless it is affirmatively established, by a preponderance of the  
4 evidence, that the rate change is necessary.

5           (f) Ensure that rates will, at all times,

6                 (1) be sufficient to enable each entity to meet its financial obligations,  
7 operating expenses, debt service, capital improvement needs; and

8                 (2) accurately reflect the true cost or savings to electrical consumers of  
9 renewable energy as defined under 4 CMC § 8621(d).

10           Any rate change shall be considered by the Commission using standards and  
11 financial criteria consistent with generally accepted rate-making practices of each  
12 entity and in full consideration of the requirements of maintenance of service to the  
13 public.

14           (g) Enter into contracts and execute all instruments necessary or convenient in  
15 the exercise of its powers.

16           (h) Adopt a seal.

17           (i) Consider any factual testimony and evidence presented by the public at any  
18 public hearing concerning the establishment or modification of any rate.

19           (j) Establish procedures for the presentation of any member of the public at  
20 public hearings. In determining whether a member of the public may be allowed to  
21 present witnesses, the Commission shall take into account an offer of proof to be filed  
22 with the application for such privilege and determine whether the proof offered would  
23 add anything to the proceedings. The request to present witnesses may be denied if  
24 the Commission finds that such Action is of a dilatory nature or would otherwise  
25 unduly impede the operations of the Commission.

26                 (1) The right to present evidence and witnesses shall be liberally  
27 granted as long as such Activity would not unduly impede the Activities of the  
28 Commission or delay the decision making process of the Commission.  
29 Nothing herein shall prevent any witness from testifying at a public hearing on  
30 his own behalf and presenting any type of documentary or physical evidence

1           at the time of testimony which may be relevant to the matter before the  
2           Commission.

3                   (2) The Commission shall give such weight to the testimony and  
4           evidence presented by the public as it gives to evidence presented by the  
5           participants before the Commission in the docket concerned and shall hold the  
6           evidence presented by the public to the same criteria, the same standards of  
7           proof, and the same rules of evidence as would be applicable to a participant.

8                   (3) The Commission shall allow any participant to make objections to  
9           the introduction of evidence by any member of the public upon any grounds  
10          which would be appropriate if such evidence were being presented by a  
11          participant to the proceedings.

12                   (4) The Commission may allow cross-examination of witnesses by  
13          participants to the proceedings and may, if appropriate, allow participants an  
14          opportunity to refute evidence presented by the public if the interests of justice  
15          so require.

16                   (k) Prepare and submit a budget to the legislature for its approval.

17                   (l) Adopt its own accounting system in coordination with the Department of  
18          Finance.

19                   (m) Promulgate such orders, rules, and regulations and to adopt such policies  
20          as necessary for governing: (1) Its internal operations, including but not limited to  
21          matters regarding quorum, type and frequency of meetings, employment and  
22          compensation of experts, consultants, examiners, office clerks and other personnel,  
23          and ethics governing the relationship between its officers and personnel and entities;  
24          (2) conduct of hearings, proceedings, appeals, and investigations before the  
25          Commission; (3) payment of charges assessed in accordance with this Chapter,  
26          including the imposition of interest and/or penalties for nonpayment of such charges;  
27          (4) issuance, renewal, or revocation of licenses and certificates of public convenience  
28          and necessity; (5) maintenance of the official files and dockets of the Commission and  
29          the public availability of such files or dockets; and (6) requirements and procedures  
30          for informal ratepayer complaints by the telecommunications company.



1           (n) To promulgate such other orders, rules, and regulations and adopt such  
2 policies as are necessary and appropriate for the exercise of its regulatory and  
3 enforcement powers in accordance with this Chapter.

4           § 8410. Powers. The Commission shall have the following powers which it may  
5 exercise in carrying out its mandate to regulate rates:

6           (a) To examine the financial records of each regulated, including but not  
7 limited to, all bank records; the terms and conditions of any contract with the United  
8 States Government or any other governmental agency, department, or division; terms  
9 and conditions of any refinancing provisions by the Federal Finance Bank and the  
10 Department of the Interior; its costs of operations and costs charged to it by the  
11 United States Government or any other governmental agency, department, or division;  
12 schedules of rates and classifications; the value and condition of the entity's physical  
13 property, including that of the United States Government or any other governmental  
14 agency, department, or division where appropriate; the issuance on behalf of the  
15 utility of bonds and the disposition of the proceeds thereof; the volume of unit sales;  
16 the amount and disposition of its income; all its financial transactions; its compliance  
17 with contracts, covenants, promissory notes, and other terms of indebtedness; its  
18 compliance with all applicable Commonwealth and federal laws.

19           (b) The power to require every entity subject to its jurisdiction to maintain  
20 such books, accounts, documents, and files and to present to the Commission such  
21 information or documents that the Commission determines are reasonably necessary  
22 for the exercise of the Commission's authority and for achieving the purposes of the  
23 Commission.

24           (c) The power at any time to examine the financial condition of entities.

25           (d) The power at any time to examine all procurement documents where  
26 public procurement was utilized in accordance with this part or under the enabling  
27 statutes of the respective governmental agency, department, or entity.

28           § 8411. Valuations. The Commission may cause a valuation to be made to ascertain  
29 for any purpose specified in this Chapter the value of the property of any entity and every fact  
30 and element of value which in its judgment may have any bearing on such value. The

1 Commission may make reevaluations and ascertain the value of all additions, extensions, and  
2 acquisitions of property of any entity. Such valuations shall be in accordance with  
3 commercial standards for the particular industry and in accordance with normal and accepted  
4 accounting practices.

5 § 8412. *Compelling, Attendance of Witnesses.* In all investigations made by the  
6 Commission and in all proceedings before it, the Commission shall have the same powers  
7 respecting administering oaths, compelling the attendance of witnesses, the production of  
8 documentary evidence, and examining witnesses as are possessed by the Superior Court.

9 (a) In case of contempt or disobedience by any person to any order of the  
10 Commission or any subpoena issued by it, or of the refusal of any witness to testify to  
11 any matter regarding which he may be questioned lawfully, the Superior Court, on  
12 application by the Commission shall compel obedience and punish said person as in  
13 the case of disobedience of the requirements of a subpoena issued from the Superior  
14 Court or a refusal to testify therein.

15 (b) Nothing herein shall be construed as in any manner giving to any entity  
16 immunity of any kind except as may already be conferred by law. The fees and  
17 traveling expenses of witnesses shall be the same as allowed witnesses in the Superior  
18 Court and shall be paid out of any appropriation available for the expenses of the  
19 Commission.

20 (c) All meetings and hearings of the Commission shall be public and minutes  
21 and records of each meeting shall be kept. Personnel matters of employees of the  
22 Commission may be handled in an executive session. All matters of claimed trade  
23 secrets may be handled in an executive session, per the request of the entity being  
24 examined by the Commission.

25 (d) Records of the transcripts of all meetings shall be made and kept for a  
26 period of no less than five (5) years. Transcripts of such sessions shall be available to  
27 the public in a reasonable time after receipt of a request, but in no case more than one  
28 month from the date of the request. Transcripts of executive sessions, except by other  
29 order of the Commission or a court of competent jurisdiction authorizing earlier  
30 release, shall be available to the public no later than two (2) years following the date

1 of the executive session. Where the Commission orders a delay in the release of the  
2 records of executive session, the Commission shall state in writing to the requesting  
3 person or entity the reason for the delay in release and the date that such records shall  
4 be made available for public review and release. Such order of the Commission may  
5 be appealable directly to the Superior Court. Nothing in this section shall be construed  
6 as preventing access of an employee from timely receipt of a copy of the transcript of  
7 any meeting, executive or otherwise, where such meeting was concerning the  
8 employment status of the respective employee. Timely access with respect to  
9 employee matters is deemed to be no more than one month from the date of the  
10 request.

11 § 8413. Enforcement Powers. The Commission may:

12 (a) Carry out public hearings and investigations;

13 (b) Issue subpoenas, orders to show cause and citations with warning of  
14 contempt. Any subpoena or citation with warning of contempt shall be signed by the  
15 Chairman or, where the Commission has delegated authority over the matter, the  
16 Commissioner or examiner so delegated, and notice thereof shall be served consistent  
17 with Title 7, Division 1 of the Commonwealth Code.

18 (c) Initiate such actions or proceedings before the Superior Court to enforce  
19 any final order, decision, citation or subpoena. If enforcement of a Commission  
20 order, decision, citation or subpoena is ordered by the Superior Court, it shall award  
21 the Commission costs and attorneys fees.

22 (d) Appear in any hearing or proceeding that is related to any matter that  
23 affects or may affect public utilities, telecommunications services, or cable television  
24 within the Commonwealth or before any private entity, public organization, court,  
25 board, committee, administrative organization, department, office or agency of the  
26 Commonwealth or Government of the United States.

27 (e) Impose and order the payment of costs, expenses and attorneys fees,  
28 together with the payment of expenses and fees for other professional and consulting  
29 services incurred in investigations, hearings, and proceedings before the Commission.

30 (f) Impose administrative fines.



1 represented by counsel, to present any evidence desired, and to cross-examine any witness  
2 who may be called.

3 § 8420. *Rulemaking Authority: Procedures and Fees.* In the hearings before it, the  
4 Commission may establish its own procedures for the conduct of hearings and the admission  
5 of evidence. The Commission shall not be bound by the strict rules of the common law  
6 relating to the admission or rejection of evidence, but may exercise its own discretion in these  
7 matters with a view to doing substantial justice.

8 (a) The Commission may establish and amend a schedule of reasonable fees  
9 and costs for copies of papers and records requested by interested parties, and for the  
10 filing and serving of papers and documents required of entities by this Chapter.

11 (b) All such fees and costs charged and collected in accordance with this  
12 section shall be paid into the Public Utilities, Telecommunications and Services  
13 Commission Revolving Fund.

#### 14 **ARTICLE 4. REVIEW OF RATES AND COMMISSION FUNDING**

15 § 8421. *Review of Rates. Operating Cost of Commission.*

16 (a) In addition to every other responsibility imposed upon the Commission by  
17 this Chapter, it shall within three hundred sixty five (365) days after the Commission  
18 first meets conduct review of the rates of every entity to determine whether they are  
19 just and reasonable and shall take such action thereon to increase or decrease rates as  
20 it may deem appropriate.

21 (b) The Commission shall operate on a self-sustaining basis; the Commission  
22 is authorized to establish by rule and order that each entity regulated under this  
23 Chapter shall be assessed a reasonable fee and charges in accordance with the  
24 provisions of this section as are necessary to:

25 (1) underwrite the Commission's operating expenses in compliance  
26 with its responsibilities hereunder; and

27 (2) establish a reserve not to exceed an amount equal to its prior year  
28 expenditures and obligations or such lesser amount that the Commission  
29 deems reasonable to assure continued and efficient operation of the

1 Commission pursuant to its projected goals and objectives and its expense  
2 experience for prior years.

3 (c) Determination of Annual Charges. The maximum amount that the  
4 Commission may impose on any single entity annually, beginning with the calendar  
5 year January 1, 2007 shall be equal to:

6 (1) a pro rata adjusted share of the total amount that the Commission  
7 must recover annually for the purposes enumerated in subsection (b), said  
8 amounts being determined on the basis of estimated expenses contained in the  
9 Commission's budget, multiplied by

10 (2) the gross annual revenues of said entity and divided by

11 (3) the gross annual revenues in the Commonwealth of all entities  
12 subject to the Commission's jurisdiction;

13 Provided that the charges to be imposed on any entity under this clause shall  
14 not exceed three fourths of one percent (.75%) of its annual gross revenue in the  
15 Commonwealth or one hundred thirty-five thousand dollars (\$135,000), whichever is  
16 less, nor shall the sum of all amounts assessed or collected from all regulated entities  
17 pursuant to this chapter in a fiscal year, other than amounts collected under § 8435,  
18 exceed the total annual budget of the Commission as appropriated by the legislature.

19 (d) Expenses for specific proceedings with respect to the hiring of specific  
20 professional and consultative services for the conduct of investigations, hearings, or  
21 any other proceeding carried out in relation with a particular entity, which was not  
22 considered or contemplated in determining the annual charges authorized under  
23 section (c) herein may be assessed by the Commission in addition to any annual  
24 charges imposed under subsection (c).

25 (e) Prior to seeking judicial review an entity regulated by the Commission  
26 shall request reconsideration of any charge imposed by the Commission by:

27 (1) making timely payment of the entire amount imposed or posting  
28 bond for such charge; and

1                   (2) contemporaneous with said payment, filing a detailed written  
2                   statement of the reasons why the charges imposed are excessive or illegal in  
3                   whole or in part.

4                   The charge(s) shall be deemed affirmed unless modified by written order of  
5                   the Commission within sixty (60) days of the filing of a request for reconsideration.  
6                   The Commission shall not be obligated to reimburse any part of any imposition of  
7                   charges if it certifies that carrying out said reimbursement would adversely affect the  
8                   Commission's operations. If the Commission issues said certification, and a court of  
9                   competent jurisdiction should find that the charge was excessive or illegal at a later  
10                  date, or the Commission should so find at a later date or upon appeal, then the  
11                  affected entity shall be entitled to reduce the corresponding amount of the impositions  
12                  of future charges that the Commission may impose. If any amount assessed against an  
13                  entity is not paid in accordance with this section within thirty (30) days after the date  
14                  of issuance, the entity shall pay a penalty to the Commission of two percent of the  
15                  amount due for each month or fraction thereof that such amount is unpaid.

16                  (f) The Commission shall deposit all fees, charges, expenses, and late penalties  
17                  collected under this section in the Public Utilities Commission Revolving Fund.

18                  § 8422. *Public Utilities Commission Revolving Fund.* A Public Utilities Commission  
19                  Fund shall be established for the use of the Commission consisting of amounts as may be  
20                  placed therein pursuant to the provisions this of Chapter.

21                  (a) The Department of Finance shall maintain all funds generated under this  
22                  Chapter in a segregated special account within the general fund identified as "The  
23                  Public Utilities Commission Revolving Fund."

24                  (b) The Commission's budget shall be appropriated by the legislature.

25                  (c) These funds shall be allotted, disbursed, expended, spent, obligated or  
26                  otherwise encumbered as provided in this section, and notwithstanding any other  
27                  provision of law, they shall not be reprogrammed for any other purpose.

28                  (d) Within sixty (60) days of the close of each fiscal year, the Commission  
29                  shall provide the presiding officers of the legislature with a full and detailed  
30                  accounting of the use of these funds. The Office of Public Auditor shall perform an

1           annual audit of the use of these funds and report its findings to the presiding officers  
2           of the legislature. These reports and any audits conducted shall be public information.

3                   (e) The expenditure authority of all funds appropriated to the Commission  
4           shall be the Chairperson of the Commission, or designee.

5                                   **ARTICLE 5. GENERAL DUTIES OF REGULATED ENTITIES.**

6           § 8423. *Regulated Entities to Furnish Information.* Every regulated entity shall at all  
7           times, upon request, furnish to the Commission all information that it may require respecting  
8           any of the matters concerning rates and charges, revenues and expenditures which it is given  
9           power to investigate and shall permit the examination of its books, records, contracts, maps,  
10          and other documents by the Commission or any person authorized by it in writing to make  
11          such examination, and shall furnish the Commission a complete inventory of its property in  
12          such form as the Commission may direct.

13                   (a) Every regulated entity shall furnish the Commission with annual reports  
14          containing information to be specified by the Commission as well as copies of all  
15          internal financial statements used by the entity on a monthly, quarterly or regular  
16          basis as requested by the Commission and reasonably necessary in the performance of  
17          the regulatory function of the Commission.

18                   (b) The Commission shall require the entities to follow standard accounting  
19          procedures, or, in the case of Public Utilities and Telecommunications Companies, the  
20          Commission may direct to follow accounting procedures required by the Federal  
21          Energy Regulatory Commission (“FERC”) or the Federal Communication  
22          Commission (“FCC”), respectively.

23           § 8424. *Rate Publication.* All regulated rates, assessment costs, classifications,  
24          charges, and rules of every entity shall be published by the entity in such manner as the  
25          Commission may require and copies furnished to any person on request.

26                   (a) All rates, charges, assessments, and costs made or charged by any entity  
27          shall be just and reasonable in conformance with public law, and shall be filed with  
28          the Commission; and no rate, charge, or assessment cost shall be established,  
29





1           § 8429. *Rate Structure and Approval Procedures.*

2                   (a) No entity shall give preferences or improper or unreasonable advantages of  
3 any type related to rates, charges, or rents for services to any person, corporation, or  
4 geographic area nor shall it subject any person, corporation, or geographic area to  
5 undue prejudices, disadvantages, or discrimination in any other service aspect.

6                   (b)     (1) Every entity shall present the Commission with a schedule of all  
7 rates, rents, and charges it proposes to assess for services of all types between points  
8 within the Commonwealth.

9                                 (2) The rate structure shall clearly set forth the sites between which the  
10 services shall be rendered and express separately all the charges, rates,  
11 privileges, or facilities granted or permitted and any internal rule or regulation  
12 or the terms and conditions of contracts that may in any way change, alter,  
13 affect, or determine any rate, rent, or charge or the sum of the rates, rents, or  
14 charges for the services rendered. The Commission shall promulgate  
15 regulations for maintaining all the information required by this subsection for  
16 public inspection.

17                   (c)     (1) No entity may charge or receive amount of compensation for any  
18 service other than the rates, rents and charges specified in the entity's current rate  
19 structure on file with the Commission;

20                                 (2) An entity may reimburse or remit directly or indirectly, in any  
21 manner or by any means, any portion of the rates, rents, and charges so  
22 specified; and

23                                 (3) No entity shall grant any person or corporation any contract form or  
24 agreement, any rule or regulation, or any facility or privilege except those that  
25 are ordinarily and uniformly granted to all persons and corporations.

26           § 8430. *Methods and Procedures for Establishing Rates, Charges and Rents.*

27                   (a) The Commission shall establish the procedures and methods to be followed  
28 in setting and approving rates, charges and rents for entities' services. The methods  
29 and procedures may provide for the utilization of:

1                   (1) price-cap formulas that result in rate adjustments based on  
2                   productivity and exogenous factors such as inflation indices and/or

3                   (2) formulas based on rate of return. The formulas may be utilized to establish  
4                   flexible prices, i.e., maximum, minimum, or both types of prices.

5                   (b) The Commission shall be obligated to revise periodically the effect of the  
6                   approved formulas for fixing rates, evaluating their effect on the entity, including  
7                   rates of return on its investment, and modifying the factors and other components of  
8                   said formulas on the basis of experience.

9                   (c) For the purposes of this subsection, the formula based on rate of return  
10                  means the methodology used to approve charges and rates for a service that takes into  
11                  consideration the public need for adequate, efficient and reasonable service, and the  
12                  need of the entity to receive sufficient income to cover all current costs for offering  
13                  said service, including taxes and interest, and including adequate provisions for the  
14                  depreciation of property needed for rendering said service, and for deriving a fair and  
15                  reasonable return on the value of their property using as a guide the return of  
16                  equivalent risk enterprises and reasonable consideration that the Commission deems  
17                  pertinent.

18                  (d) The Commission may utilize methods, analytical techniques and  
19                  procedures for determining rates, rents, and charges that are different from those  
20                  mentioned in this subsection, including forbearance of rate regulation and detariffing,  
21                  provided it demonstrates in authentic form that the chosen method will satisfy the  
22                  criteria established in this subsection for the rate structure in a more effective way  
23                  than the methods mentioned herein.

24                  (e) No entity may use current revenue earned or expenses incurred in  
25                  conjunction with services subject to regulation under this Chapter to subsidize  
26                  services that are not regulated or are not tarified. Expenses incurred in conjunction  
27                  with services that are not regulated or that are not tarified under this Chapter may not  
28                  be attributed to services that are subject to regulation for any reason. The Commission  
29                  may not subsidize the price of any entity's service, including wholesale prices or the

1 prices of elements, by reducing the prices to reflect an allocation or credit of revenue  
2 from the operations of an affiliated company of the entity.

3 § 8431. *Procedure for Implementing or Modifying, Rates, Charges or Rents.* The  
4 following procedures shall apply when implementing or modifying changes in rates, charges,  
5 and rents for an entity's services unless the Commission determines that these should not  
6 apply to the formula or procedure established for determining rates, and adopt alternative  
7 procedures.

8 (a) *Notification.* Every regulated entity interested in modifying the rates,  
9 charges, or rents applicable to its services shall provide public notice of such proposed  
10 modifications at least sixty (60) days prior to the effective date of the proposed  
11 changes. The Commission shall provide the form and content of the aforementioned  
12 notifications by regulation, provided that the public notification shall at least include  
13 the place, date, and time at which the public hearings on the proposed change will  
14 take place (which date must not be less than thirty (30) days nor more than thirty-five  
15 (35) days from the date of said notification); the rates, charges, or rents in force; the  
16 rates, charges, or rents whose adoption is proposed and the justification thereof and  
17 the effective date of the proposed changes. For the purpose of this clause, public  
18 notification shall include, as a minimum, its publication in one newspaper of general  
19 circulation that covers the area affected by the proposed change.

20 (b) *Public Hearings.* The Commission shall hold public hearings on proposed  
21 rate changes when these apply to non-competitive entity services. In cases of  
22 competitively-provided services the Commission shall have the discretion to hold  
23 such hearings.

24 (c) *Access to Documents.* The Commission shall place reports or documents  
25 supporting or justifying the proposed modifications to rates, charges, or rents at the  
26 disposition of the public sufficiently in advance of the date on which the hearings are  
27 to be held. In the event that public hearings are not held, the aforementioned  
28 information shall be available before the rates, charges, or rents go into effect.

29 (d) *Opinion; Report.* In the event the public hearing is presided over by an  
30 examiner, such examiner shall submit a report to the Commission within such period

1 of time as the Commission may establish. The report shall include a list of objections,  
2 statements, opinions, documents, studies, recommendations, and other pertinent facts  
3 introduced in the hearings, together with conclusions and recommendations. Copies of  
4 said report shall be available to the public for examination and study. Any interested  
5 party may submit written comments in relation to said report within ten (10) days  
6 following the date same is made available to the public. Once this term has elapsed,  
7 the matter shall be submitted to the Commission, which must make a decision  
8 regarding the proposed rate change.

9 (e) *Alternate Procedures.* Prior to the expiration of the notification periods to  
10 the public established in this subsection for rate changes for an entity's services, the  
11 Commission may: (1) reject the proposed change in the rates, charges, or rents as  
12 clearly illegal or incompatible with any provision or purpose hereof; (2) suspend the  
13 effectiveness of said proposal and take such other actions as may be appropriate. It  
14 will not be necessary for the Commission to reject or suspend a proposed change in  
15 rates, charges, or rents in order to carry out a hearing related to the legality of said  
16 proposal.

17 § 8432. *Suspension of Proposed Rates, Charges or Rents.*

18 (a) After having initiated a hearing to consider a proposed rate change and  
19 while said hearing and the decision on same are pending, the Commission may  
20 suspend the application of said rate, charge, or rent in full or in part, for a period no  
21 longer than five (5) months on and after the time at which it would otherwise have  
22 become effective, by delivering a written statement to the affected regulated entity  
23 with the reasons for said suspension.

24 (b) After a full hearing, the Commission may issue such orders as may be  
25 appropriate in a proceeding initiated after said rate, charge, or rent is in force. If the  
26 proceeding has not been concluded and an order has been issued within the  
27 suspension period, the proposed rate, charge, or rent, whether new or revised, shall  
28 become effective at the end of said period. In the case of a proposed change for a new  
29 service or an increase in the charges, the Commission may, by order, require the  
30 interested entity to maintain a precise accounting of all the amounts received by

1 reason of said rates, charges, or rents for new services or increases in rates, charges,  
2 or rent, specifying by whom and in benefit of whom said amounts are paid. Once the  
3 hearing has concluded and a decision has been issued, the Commission may, by  
4 another order, require the affected entity to reimburse with interest the persons in  
5 whose representation said amounts were paid, with that portion of said rate, charge, or  
6 rent for new service or increase in rates, charges or rents, for which, by determination,  
7 the Commission finds no justification. In any hearing in which an already increased or  
8 to be increased charge is involved, the weight of the proof demonstrating that said  
9 increase in rates, charges, or rents is fair and reasonable shall fall upon the regulated  
10 entity.

11 (c) If the Commission determines that conditions require immediate action, it  
12 may waive the requirement for a prior hearing and shall make its determinations  
13 pursuant to the information in its possession. If the Commission or the reviewing  
14 court subsequently determines that the partial or temporary rates fixed by the  
15 Commission were not fair and reasonable, it shall permit the affected regulated entity  
16 to recover the amount that represents the difference between the gross income  
17 obtained by reason of the temporary rates and the gross income it would have  
18 obtained, had the finally authorized rates been fixed originally, by means of a  
19 temporary increase in the definitive rates.

20 § 8433. Fixing of Just and Reasonable Rates, Charges and Rents.

21 (a) If, as part of a complaint, or an authorization process for changing rates,  
22 charges, or rents, or under an investigation order issued by the Commission at its own  
23 initiative, the Commission determines after holding a hearing that any rate, charge or  
24 rent of any regulated entity is or shall be in violation of any provisions hereof,  
25 incompatible with the purposes hereof, unreasonable or shall offer improper  
26 advantages or preferences to said regulated entity, or otherwise endangers the stability  
27 of the provision of the entity's services to the Commonwealth, the Commission may  
28 determine and fix what the just and reasonable rates, charges, and rents shall be, or  
29 the maximum or minimum rates, charges or rents that must be observed.

1           (b) The Commission may order a regulated entity to cease and desist from said  
2 rates, charges, or rents to the extent that the Commission deems necessary, and may  
3 prohibit the entity from publishing, demanding, or charging any rate, charge, or rent  
4 that is different from that fixed by the Commission, or in excess of the maximum or  
5 less than the minimum, as the case may be.

6           § 8434. *Service Outages.* The Commission may order a regulated entity to credit or  
7 rebate its customers a proportion of such customer’s basic service fee if there has been a  
8 service outage or a series of service outages and such outage or outages has been determined  
9 by the Commission to be unreasonable. The Commission shall promulgate rules and  
10 regulations to define an “unreasonable service outage,” the formula for determining the  
11 amount of credit or rebate, and any other necessary rules and regulations necessary to  
12 implement this subsection.

13           § 8435. *Complaints to the Commission: Violations and Penalties.*

14           (a) Customer complaints to the Commission regarding the operation of a  
15 regulated entity shall be filed in writing with the Commission. The Commission shall  
16 take up such complaints with the regulated entity, in an effort to bring about the  
17 satisfaction of the complaint without a formal hearing.

18           (b) The Commission shall resolve all complaints, if possible, informally. No  
19 form of informal complaint is prescribed, but the writing must contain the essential  
20 elements of a complaint, including the name and address of the complainant, the name  
21 of the regulated entity against which the complaint is made, a clear and concise  
22 statement of the facts involved, and a request for affirmative relief.

23           (c) In the event that the Commission cannot resolve the complaint to the  
24 satisfaction of all parties, the complainant may file a formal request to the  
25 Commission and will be entitled to a hearing.

26           (d) If the Commission determines that any rate, action, omission, rule  
27 regulation, classification, or practice of a regulated entity violates any provision  
28 hereof or any rule or order of the Commission, then the Commission may:

1                   (1) order said entity to pay the complainant the damages it caused that  
2                   are attributable to said rate, act, omission, rule, regulation, classification, or  
3                   practice, and

4                   (2) order said entity to take such actions or desist from carrying out  
5                   such actions as the Commission may determine are reasonably necessary for  
6                   desisting from the violation.

7                   (e) A regulated entity may be subject to a fine or civil penalty in accordance  
8                   with this section, upon a determination by the Commission or court that the entity has  
9                   violated any of the following:

10                   (1) The material terms of its certificate of public convenience and  
11                   necessity; or

12                   (2) Substantial compliance with this Chapter or rules or orders  
13                   prescribed by the Commission.

14                   (f) The Commission may impose administrative fines of up to a maximum of  
15                   twenty-five thousand (\$25,000) dollars for each violation hereof. In the case of a  
16                   continuing violation, each day that transpires shall constitute a separate offense, but  
17                   the total amount of the fine imposed shall not exceed five hundred thousand  
18                   (\$500,000) dollars. Any penalty assessed under this subsection is in addition to any  
19                   other costs, expenses or payments for which the regulated entity is responsible under  
20                   other provisions of this subsection.

21                   (g) The Commission may permit, in lieu of a full hearing before the  
22                   Commission, that one of its hearing examiners conduct hearings and report its  
23                   findings to the Commission.

24                   (h) Where a complaint is found to have been groundless and filed in bad faith  
25                   by a customer, in whole or in part, the Commission shall assess costs in whole or in  
26                   part for investigation, defense, and other associated costs, including but not limited to,  
27                   reasonable attorney fees borne by the regulated entity and the Commission in the  
28                   review of the complaint to the customer.

29                   (i) The Commission shall adopt rules governing the filing of such complaints.





1           (a) Approval of purchase is subject to preliminary approval of proposed rate  
2 structure following divestiture.

3           (b) A significant purchase of capital for the production of electricity, water, or  
4 treatment of wastewater is that purchase which may cause a modification or change in  
5 the rate structure being charged to the customer.

6 § 8441. Certification of Public Utility Companies.

7           (a)     (1) *Certification Required.* Any public utility company interested in  
8 providing or operating a service in the Commonwealth shall request, obtain, and  
9 maintain a valid certificate of public convenience and necessity from the Commission  
10 except as provided for in subsection (d) of this section.

11                     (2) The Commission shall grant certification to a public utility  
12 company if it determines that, aside from complying with the established  
13 criteria, certification is consistent with the public interest. When Acting upon a  
14 request, the Commission may grant certification in full or in part and may  
15 impose such conditions and terms as it determines to be reasonably necessary  
16 for achieving the purposes hereof.

17           (b) *Modifications, Suspensions, and Revocations.* A certification granted by  
18 the Commission pursuant to provisions of this article may be modified, suspended, or  
19 revoked by the Commission for just cause after notice and opportunity for hearing.

20           (c) *Authorization for Discontinuation or Cessation of Services.*

21                     (1) No public utility company may discontinue, reduce, or diminish its  
22 provision of services unless it requests and obtains a valid authorization from  
23 the Commission for said discontinuation, reduction, or diminishment.

24                     (2) The Commission shall adopt regulations specifying the form,  
25 content, procedure, and criteria for filing requests for such authorizations and  
26 for providing the public with the opportunity to express itself thereon. Said  
27 procedure shall, without it being understood as a limitation, include the  
28 publication of notices notifying the public about said requests. When acting  
29 upon requests for discontinuation, cessation, reduction, or diminishment of a  
30 service, the Commission shall consider the reasons on which the request is

1 based together with the consequences of a social nature and public interest that  
2 may result from its decision. The Commission may grant or deny the request  
3 in full or in part, or impose such conditions on every total or partial  
4 authorization as it deems reasonably necessary for achieving the purposes  
5 hereof.

6 (d) *Existing Franchises.* The Commonwealth Utilities Corporation shall not  
7 be required to obtain a certificate of public convenience and necessity from the  
8 Commission. Nor, while as a government entity, shall the Commonwealth Utilities  
9 Corporation be subject to § 8421 of this chapter. In the event that the Commonwealth  
10 Utilities Corporation privatizes its power, water, or sewer division, the private  
11 company or contractor that operates the power, water, or sewer division shall be  
12 required to obtain a certificate of public convenience and necessity from the  
13 Commission and be subject to § 8421 of this chapter.

14 **ARTICLE 9. REGULATION OF TELECOMMUNICATIONS**

15 § 8442. *Additional Definitions.* The following additional definitions apply to this  
16 article:

17 (a) ‘*Federal Communications Act of 1934*’ means the Federal  
18 Communications Act of 1934, 47 U.S.C. 151 et seq., as amended, which includes the  
19 Federal Telecommunications Act of 1996;

20 (b) ‘*Gross Revenue*’ or ‘*revenues*’ means the gross revenue from  
21 telecommunications services that originate or terminate in the Commonwealth and are  
22 billed for a service address in the Commonwealth, excluding revenue from the resale  
23 of telecommunications services to another telecommunications service provider that  
24 uses the telecommunications services to provide telecommunications services to the  
25 ultimate retail customer who originates or terminates the transmission.

26 § 8443. *Transfers and Capitalization.*

27 (a) *Transfers.* Franchises, certificates of public convenience and necessity,  
28 substantial assets as defined by regulation, and certificates of capital stock of a  
29 telecommunications company, as well as direct or indirect control of a person or

1 corporation possessing the same, may not be sold, assigned, transferred, mortgaged,  
2 or otherwise encumbered without the prior consent of the Commission. The  
3 Commission shall adopt regulations that specify the form, content and procedures for  
4 filing the pertinent requests and for giving the public the opportunity to express its  
5 viewpoints. This subsection shall not be interpreted to the effect that it impedes the  
6 sale, encumbrance, or disposal of property that is not necessary or useful for the  
7 rendering of telecommunications services by any telecommunications company.

8 (b) *Capitalization.* The Commission shall establish the minimum capital  
9 requirements that each telecommunications company must satisfy. When establishing  
10 said requirements, the Commission may take into account the capitalization of any  
11 entity that may have an interest in the telecommunications company. The Commission  
12 shall also have authority to adopt rules related to mortgages, encumbrances, and other  
13 liabilities on the stock and assets of the telecommunications company, including rules  
14 requiring the prior approval of the Commission to carry out financial transactions,  
15 such as security contracts, mortgages, or any other type of encumbrance or liability.  
16 Any transaction of any type that results in a violation of the provisions of subsections  
17 (a) and (b), above, or the rules that the Commission may adopt by virtue thereof shall  
18 be null and void.

19 § 8444. *Compliance: Standards of Service and Facilities.*

20 (a) *General Standard.* Every telecommunications company shall supply and  
21 maintain adequate and efficient telecommunications services, where economically  
22 feasible, on all Commonwealth islands. Unjust or unreasonable discriminations in  
23 rendering telecommunications services are prohibited. Every telecommunications  
24 company shall adopt and present to the Commission the quality criteria it will utilize  
25 to achieve the aforementioned standards and objectives.

26 (b) *Quality Criteria.* For local telecommunications services, such criteria shall  
27 include, but without being limited to, the following:

- 28 (1) installation and repair of facilities;
- 29 (2) management of calls by operators;
- 30 (3) completed calls;

- 1 (4) transmission and noise;  
2 (5) suspension of service for failure to pay;  
3 (6) invoices to customers and disputes on invoicing; and  
4 (7) interruptions in the service.

5 For local telecommunications services, the standards adopted by the  
6 Commission shall ensure that such services are provided to all customers on all  
7 Commonwealth islands where technically feasible and at the lowest possible cost in  
8 keeping with good service.

9 (c) *Specification of Services and Facilities.* If it is determined that such is  
10 reasonably necessary to achieve the purposes hereof, the Commission shall have the  
11 authority to require the telecommunications company to carry out the repairs,  
12 changes, alterations, additions, extensions, and improvements needed to achieve the  
13 quality standards and objectives.

14 § 8445. *Insurance.* The Commission shall have the authority to require  
15 telecommunications companies to insure for such amounts and against such risks as the  
16 Commission determines to be reasonably necessary to guarantee the payment by said  
17 companies or their directors, officials, employees, agents, or contractors that is otherwise  
18 deemed necessary for complying with the purposes hereof. To this effect the Commission  
19 may require them to acquire insurance policies and/or bonds that demonstrate their capacity  
20 to assume the financial loss associated with such risks, through self-insurance or any other  
21 mechanism acceptable to the Commission.

22 § 8446. *Forbearance of Rate Regulation to Facilitate Competition.*

23 (a) In accordance with the provisions of this section, the Commission shall  
24 forbear regulation as to rates, tariffs, fares, or charges to facilitate competition and  
25 shall authorize the provision of all or any portion of regulated telecommunications  
26 service under stated or negotiated terms to any person or entity that has acquired or is  
27 contemplating acquisition of, through construction, lease, or any other form of  
28 acquisition similar telecommunications service from an alternate source.

29 (b) At any time, the provider of regulated telecommunications service may file  
30 a verified application with the Commission for forbearance of regulation to facilitate

1 competition. The application must describe the telecommunications service to be  
2 offered, the customer to be served, and the party or parties offering similar service,  
3 together with other information and in a form that the Commission may prescribe.  
4 The additional information must be reasonably related to the determination of the  
5 existence of an alternative offer but may not require information relating to the cost of  
6 providing the service.

7 (c) The Commission shall approve or deny an application for forbearance of  
8 regulation to facilitate competition within thirty (30) days after the filing of the  
9 application. If the Commission has not acted on an application within the permitted  
10 time period, the application is considered granted. The Commission shall deny the  
11 application only upon a finding that the application is incomplete or that the subject or  
12 similar service is not being offered to the customer by parties other than the applicant.  
13 If a customer or potential customer of the provider seeking forbearance requests a  
14 quotation of prices from another provider of telecommunications service having  
15 tariffs or price lists for similar services on file with the Commission, the Commission  
16 may presume the existence of competition.

17 (d) Upon approval of the application, the provider of telecommunications  
18 service may negotiate with a person or an entity for the provision of the service  
19 without regard to its tariffs or price lists on file with the Commission.

20 (e) Within ten (10) days after the conclusion of the negotiations, the provider  
21 of regulated telecommunications service shall file with the Commission the final  
22 contract or other evidence of the service to be provided, together with the charges and  
23 other conditions of the service. Thereafter, for the term of the contract, the provider of  
24 regulated telecommunications service may provide the service to the customer  
25 without regard to its tariffs or price lists on file with the Commission.

26 (f) Services provided pursuant to subsection (a) remain subject to the  
27 regulatory powers of the Commission.

28 § 8447. *Duty to Interconnect.*

29 (a) The purpose of this section is to implement specific provisions of the  
30 Federal Telecommunications Act of 1996, Public Law 104-104.

1           (b)    (1) Each telecommunications carrier shall perform the duties  
2           enumerated in 47 U.S.C. 251(a).

3                   (2) Each local exchange carrier shall perform the duties enumerated in  
4           47 U.S.C. 251(b).

5                   (3) In addition to the duties provided for in subsection (b) (2), each  
6           local exchange carrier shall perform the duties enumerated in 47 U.S.C.  
7           251(c).

8           § 8448. Voluntary Negotiation of Interconnection Agreements. Upon receiving a  
9           request for interconnection, services, or network elements, an incumbent local exchange  
10          carrier may negotiate and enter into a binding agreement with the requesting  
11          telecommunications carrier or carriers. The agreement must include a detailed schedule of  
12          itemized charges for interconnection and each service or network element included in the  
13          agreement.

14          § 8449. Mediation of Interconnection Agreements. Upon the written request of any  
15          party negotiating an agreement for interconnection with another telecommunications carrier,  
16          the Commission may designate a mediator, who may be a Commission member, to mediate  
17          any differences arising in the course of the negotiation.

18          § 8450. Arbitration of Interconnection Issues.

19               (a) The Commission has the authority to arbitrate any open interconnection  
20          issues pursuant to 47 U.S.C. 252(b), as it existed on February 8, 1996.

21               (b) During the period from the 135<sup>th</sup> to the 160<sup>th</sup> day, inclusive, after the date  
22          on which an incumbent local exchange carrier receives a request for negotiation, the  
23          carrier or any other party to the negotiation may petition the Commission to arbitrate  
24          any open issues. A party that petitions the Commission under this section shall, at the  
25          same time as it submits the petition, provide the Commission with all relevant  
26          documentation concerning the following:

27                   (1) the unresolved issues;

28                   (2) the position of each of the parties with respect to those issues; and

29                   (3) any other issue discussed and resolved by the parties.

1           (c) A party petitioning the Commission under this section shall provide a copy  
2 of the petition and any documentation to the other party or parties not later than the  
3 day on which the Commission receives the petition.

4           (d) A nonpetitioning party to a negotiation may respond to the other party's  
5 petition and provide any additional information that it wishes within 15 days after the  
6 Commission receives the petition.

7           (e) The Commission shall limit its consideration to those issues set forth by  
8 the parties to the negotiation in the petition for arbitration and the response to the  
9 petition.

10          (f) The Commission may appoint a hearing examiner for arbitration  
11 proceedings under this section. The hearing examiner shall file with the Commission  
12 a proposed decision within the time set by order of the Commission. A hearing  
13 examiner must be assigned with regard to the expertise required for the particular  
14 matter. On the filing by a party, in good faith, of a timely and sufficient affidavit of  
15 personal bias, lack of independence, disqualification by law, or other disqualification  
16 of a hearing examiner or on the hearing examiner's own motion, the Commission  
17 shall determine the affidavit or motion as a part of the record in the case. The  
18 Commission may disqualify the hearing examiner and appoint another hearing  
19 examiner. The affidavit must state the facts and the reasons for the belief that the  
20 hearing examiner should be disqualified and must be filed not less than ten (10) days  
21 before the original date set for the hearing.

22          (g) Participation in the arbitration proceeding must be limited to the  
23 telecommunications carrier requesting the arbitration, the telecommunications carrier  
24 from which interconnection is being sought, and the Commonwealth consumer  
25 counsel.

26          (h) Negotiations among the telecommunications carriers may continue,

27          (i) Unless otherwise agreed to by the parties, the Commission shall, within 10  
28 days of the filing of a request for arbitration, conduct a conference with the parties for  
29 the purpose of establishing a schedule for the orderly and timely disposition of the  
30 arbitration. The schedule must include discovery deadlines and a hearing date.



1           (j) The Commission may issue subpoenas for the attendance of witnesses and  
2           the production of books, records, documents, and other evidence relevant to the issues  
3           being arbitrated and may administer oaths. Subpoenas must be served and enforced in  
4           the manner provided by law for the service and enforcement of subpoenas in a civil  
5           Action in Superior Court. The Commission shall regulate the course of the hearings  
6           and the need for filing briefs and may direct the parties to appear and confer to  
7           consider simplification of the issues by consent of the parties pending a final decision  
8           by the arbitrator.

9           (k) The Commission shall issue its final decision no later than six (6) months  
10          after the request for negotiations on a petition issued. When the Commission files its  
11          final decision or when the hearing examiner files the proposed decision with the  
12          Commission, each party must be simultaneously given a copy delivered personally or  
13          by certified mail. The decision must:

14                   (1) ensure the resolution of issues presented by the parties and this  
15                   section;

16                   (2) establish rates for interconnection, services, or access to unbundled  
17                   network elements pursuant to 47 U.S.C. 252(d); and

18                   (3) provide a schedule for implementation of the terms and conditions  
19                   of the decision by the parties.

20          (l) If the person who conducted the hearing becomes unavailable to the  
21          Commission, the Commission is not precluded from issuing a final decision based on  
22          the record if the demeanor of the witnesses is considered immaterial by all parties.

23          (m) Unless required for the disposition of ex parte matters authorized by law,  
24          the person or persons who are charged with the duty of rendering a decision or of  
25          making findings of fact and conclusions of law in an arbitration proceeding, after  
26          issuance of notice of hearing, may not communicate with any party or a party's  
27          representative in connection with any issue of fact or law in the case unless there is  
28          notice and opportunity for all parties to participate.

1           § 8451. *Approval of Arbitration Decision.*

2                   (a) If the Commission has not approved or rejected in its entirety an agreement  
3           adopted by arbitration within thirty (30) days of submission by the parties, the  
4           agreement is considered approved.

5                   (b) The Commission may reject the agreement only if the Commission finds  
6           that the agreement does not meet the requirements of 47 U.S.C. 251 and the  
7           regulations prescribed to implement that section by the FCC or the standards set forth  
8           in 47 U.S.C. 252(d). Upon rejection of an agreement, the Commission shall provide  
9           the parties with written findings as to any deficiencies.

10          § 8452. *Approval of Interconnection Agreements.*

11                   (a) Within thirty (30) days of filing of an interconnection agreement adopted  
12          by negotiation of the parties to an agreement, the Commission shall approve or reject  
13          the agreement, or the agreement is considered approved.

14                   (b) The Commission may reject an agreement filed under this section only if  
15          the Commission finds that:

16                           (1) the agreement or a portion of the agreement discriminates against a  
17                           telecommunications carrier not a party to the agreement; or

18                           (2) the implementation of the agreement or a portion thereof is not  
19                           consistent with the public interest, convenience, and necessity.

20                   (c) Upon rejecting an agreement filed under this section, the Commission shall  
21          issue written findings detailing any deficiencies in the agreement.

22          § 8453. *Determination of Eligible Carrier Status - Universal Service Support.*

23                   (a) The Commission is authorized to designate telecommunications carriers as  
24          eligible for Federal Universal Service support, in accordance with 47 U.S.C. 214(e)(1)  
25          and 47 U.S.C. 254, and for any CNMI universal service funds. This authorization  
26          applies to all telecommunications carriers notwithstanding the carrier exemption from  
27          further regulation by the Commission.

28                   (b) Upon the petition of a telecommunications carrier, or upon its own motion,  
29          the Commission shall designate a telecommunications carrier that meets the  
30          requirements of 47 U.S.C. 214(e)(1) as an eligible telecommunications carrier for a

1 service area designated by the Commission. In the case of an area served by a rural  
2 telephone company, the term “service area” means the company “study area” for  
3 Federal Universal Service support unless the FCC establishes a different definition of  
4 service area for the company. The term “service area” for all other  
5 telecommunications carriers means a geographic area such as a census block or grid  
6 block as established by the Commission for the purpose of determining federal  
7 universal service obligations and support mechanisms.

8 (c) Upon receiving a petition from a telecommunications carrier and consistent  
9 with the public interest, convenience, and necessity, the Commission may, in the case  
10 of an area served by a rural telephone company, and shall, in the case of all other  
11 areas, designate more than one telecommunications carrier for a service area, so long  
12 as each additional requesting telecommunications carrier meets the requirements of  
13 47 U.S.C. 214(e)(1). Before designating an additional eligible telecommunications  
14 carrier for an area served by a rural telephone company, the Commission shall find  
15 that the designation is in the public interest.

16 (d) If no telecommunications carrier will provide the services that are  
17 supported by universal service support mechanisms under 47 U.S.C. 254(c) to all or a  
18 part of an unserved community that requests service, the Commission shall determine  
19 which telecommunications carrier is best able to provide the service to the requesting  
20 unserved community. Any telecommunications carrier ordered to provide service  
21 under this section shall meet the requirements of 47 U.S.C. 214(e)(1) and must be  
22 designated as an eligible telecommunications carrier for that community or the  
23 unserved portion of the community.

24 (e) The Commission shall permit an eligible telecommunications carrier to  
25 relinquish its designation as an eligible carrier in any area served by more than one  
26 eligible telecommunications carrier. An eligible telecommunications carrier that seeks  
27 to relinquish its eligible telecommunications carrier designation for an area served by  
28 more than one eligible telecommunications carrier shall give advance notice to the  
29 Commission of the relinquishment. Prior to permitting a telecommunications carrier  
30 designated as an eligible telecommunications carrier to cease providing universal

1 service in an area served by more than one eligible telecommunications carrier, the  
2 Commission shall require the remaining eligible telecommunications carrier to ensure  
3 that all customers served by the relinquishing carrier will continue to be served and  
4 shall require sufficient notice to permit the purchase or construction of adequate  
5 facilities by any remaining eligible telecommunications carrier. The Commission shall  
6 establish a time, not to exceed one (1) year after the Commission approves  
7 relinquishment under this section, within which the purchase or construction must be  
8 completed.

9 § 8454. Discounts for Schools, Libraries, Youth Learning Centers and Health Care  
10 Providers. The Commission is authorized to establish intra-Commonwealth discounts to  
11 schools, libraries, youth learning centers and health care providers and to perform  
12 administrative functions necessary as a condition of Federal Universal service support if the  
13 discounts are recovered through the Federal Universal Service fund.

14 § 8455. Additional Duties as to Telecommunication. With respect to  
15 telecommunication companies, the Commission shall:

16 (a) Ensure that there shall be no discrimination in services (including the  
17 types, quality or pricing of services offered) by reason of location, race, sex, origin,  
18 religion, or political affiliation;

19 (b) Ensure that no user's service shall be disconnected without just cause and  
20 only following adequate notification;

21 (c) Ensure that telecommunication companies have established standard  
22 operating procedures to ensure that service outages or interruptions of service, as are  
23 inevitable, be corrected as quickly as possible;

24 (d) Ensure that telecommunication companies have established standard  
25 operating procedures to ensure that any dispute on invoices be processed equitably  
26 and diligently. The Commission shall encourage the informal solution of  
27 controversies;

28 (e) Issue, renew, or revoke certificates of public convenience and necessity for  
29 the provision of telecommunications services.

1           § 8456. *Regulations.* The Commission shall coordinate with the Federal  
2 Communication Commission (FCC) to adopt specific regulations for its designated  
3 telecommunication service providers to preserve and advance universal service, contribute on  
4 an equitable and nondiscriminatory basis to universal fund to promote universal service in the  
5 Commonwealth.

6           (a) All rules and regulations promulgated under this article shall conform with  
7 the regulation of the telecommunication services as dictated by applicable federal  
8 statutes, including but not limited to the Federal Communications Act of 1934.

9           § 8457. *Certification of Telecommunication Companies.*

10           (a) (1) *Certification Required.* Any telecommunications company  
11 interested in providing or operating a telecommunications service in the  
12 Commonwealth shall request, obtain, and maintain a valid certificate of public  
13 convenience and necessity from the Commission. Certification is not required for any  
14 telecommunications company interested in providing or operating an information  
15 service, as that term is defined in the Federal Communications Act of 1934.

16           (2) The Commission shall grant certification to a telecommunications  
17 company if it determines that, aside from complying with the established  
18 criteria, certification is consistent with the public interest. When Acting upon a  
19 request, the Commission may grant certification in full or in part and may  
20 impose such conditions and terms as it determines to be reasonably necessary  
21 for achieving the purposes hereof.

22           (b) *Modifications, Suspensions, and Revocations.* A certification granted by  
23 the Commission pursuant to provisions of this article may be modified, suspended, or  
24 revoked by the Commission for just cause after notice and opportunity for hearing.

25           (c) *Authorization for Discontinuation or Cessation of Services.*

26           (1) No telecommunications company may discontinue, reduce, or  
27 diminish its provision of telecommunications services unless it requests and  
28 obtains a valid authorization from the Commission for said discontinuation,  
29 reduction, or diminishment.

1                   (2) The Commission shall adopt regulations specifying the form,  
2                   content, procedure, and criteria for filing requests for such authorizations and  
3                   for providing the public with the opportunity to express itself thereon. Said  
4                   procedure shall, without its being understood as a limitation, include the  
5                   publication of notices notifying the public about said requests. When acting  
6                   upon requests for discontinuation, cessation, reduction, or diminishment of a  
7                   telecommunications service, the Commission shall consider the reasons on  
8                   which the request is based together with the consequences of a social nature  
9                   and public interest that may result from its decision. The Commission may  
10                  grant or deny the request in full or in part, or impose such conditions on every  
11                  total or partial authorization as it deems reasonably necessary for achieving  
12                  the purposes hereof.

13                  (d) *Registration of Interstate and International Communications Companies.*  
14                  Any telecommunications company that provides interstate or international  
15                  telecommunications services between the Commonwealth and other places outside the  
16                  Commonwealth shall file all authorizations granted by the Federal Communications  
17                  Commission to provide said service with the Commission within thirty (30) days  
18                  following the commencement of said service, or a certified statement from the Federal  
19                  Communications Commission that said authorization is not required. It shall also file  
20                  the name, address, and telephone number of the person to whom complaints about  
21                  such services must be directed.

22                  (e) *Existing Franchises.* Any existing telecommunications franchise that has  
23                  obtained a valid certificate of public convenience and necessity from the  
24                  Commonwealth Telecommunications Commission shall continue in full force and  
25                  effect unless expressly changed, repealed or abrogated by legislation or act of the  
26                  Commission. The Commission shall make such administrative changes as are  
27                  necessary to conform these to the Commission's practices and procedures.

28



1           accordance with this act and the rules and regulations promulgated by the PUC  
2           hereafter, pursuant to the provisions of this act.

3                   (2) The various conditions and requirements previously imposed on  
4           Pacific Telecom, Inc., (PTI), and the Micronesian Telecommunications  
5           Corporation (MTC) by the CTC in its decision and order in CTC Case No.  
6           03-01 are hereby vacated and set aside, except the following:

7                           (A) the CTC approval of the transfer of ownership of MTC  
8                           from Verizon to PTI shall remain and shall continue to be valid;

9                           (B) the certificate of public convenience and necessity issued  
10                          by the CTC in favor of PTI and MTC in 2005 shall also remain valid  
11                          and effective; and

12                          (C) the condition of the decision and order of the CTC  
13                          prohibiting PTI and MTC from imposing any inter-island toll charge  
14                          between the islands of Saipan, Rota, and Tinian shall remain effective  
15                          and shall continue unchanged.

16                          In the event that there is good cause shown for the re-imposition of any  
17                          of the conditions or requirements previously imposed by the CTC, then and  
18                          only in the event shall the PUC begin a new process of holding a hearing with  
19                          all the necessary procedural safeguards in place to ensure that a fair hearing is  
20                          accorded both the telecommunications company affected and the interested  
21                          party having standing to make such assertion before the PUC.

22                          (3) The PUC shall have the authority to promulgate all necessary rules  
23                          and regulations needed to carry out its mandate under this act; and shall not be  
24                          bound the rules and regulations of the CTC which are hereby vacated and set  
25                          aside.

26                          (4) Any unexpended balance of moneys and any fees or other moneys  
27                          now owing to the CTC shall be and the same are hereby transferred and  
28                          assigned over to the PUC hereby created, to be used and disposed of, as  
29                          provided by law.



1                   (5) Except as otherwise provided by law, the regulations, standards,  
2                   procedures, franchises and all other such aspects related to the regulation of  
3                   the functions and operation of a regulated telecommunications utility that are  
4                   in force when this Act becomes effective, shall continue to apply until  
5                   amended or repealed by PUC.

6                   (6) Upon the effective date of this act, all the members of the CTC  
7                   holding office shall immediately cease to be commissioners. Within 30 days  
8                   after the effective date of this act, the governor shall appoint new members to  
9                   the PUC in accordance to § 8403 of Section 2 of this act.

10                  (b) Commonwealth Utilities Corporation.

11                   (1) When a provision of this Commonwealth PUC Act conflicts with a  
12                   provision of the Commonwealth Utilities Corporation Act, Public Law 4-47,  
13                   as amended, 4 CMC §§ 8111 et seq., the provision of this Commonwealth  
14                   PUC Act shall control.

15                   (2) For regulatory purposes, including the setting of rates, the approval  
16                   of prices fees, charges, terms and services, and the resolution of disputes  
17                   between a regulated utility and its customers, the PUC is the successor to the  
18                   Commonwealth Utilities Corporation Board (CUC), and all such Orders,  
19                   decisions, rules, regulations, certificates, guidelines, practices and regulatory  
20                   procedures of the CUC shall continue in full force and effect.

21                   (3) Except as otherwise provided herein, the regulations, standards,  
22                   procedures, franchises and all other such aspects related to the regulation of  
23                   the functions and operation of a regulated power, water, wastewater or cable  
24                   television regulated utility that are in force when this Act becomes effective,  
25                   shall continue to apply until amended or repealed by PUC.

26                   (4) Notwithstanding § (1) of this section or any law to the contrary, 4  
27                   CMC § 8122, as amended by Executive Order No. 2006-4, is amended further  
28                   as follows:

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(A) § 8122(a) is amended to read:

“The Commonwealth Utilities Corporation shall supervise and bear the cost of construction, maintenance, operations, and regulation of power, sewage, and water utility services; provided, that whenever feasible the corporation shall contract for private business to assume its duties with respect to one or more of its functions. Construction, maintenance and operations of power, sewage and water utility services includes the corporation’s capacity to extend, expand and make utility services uniformly available to all consumers.

(B) A new subsection (c) is added to § 8122 to read:

“(c) After the board makes a final decision to privatize or transfer ownership, control, management or operation, in whole or in part, of a utility pursuant to this chapter:

(1) the executive director shall submit a proposed, public notice to request for proposals stating the decision and intention of the board, the purpose of the request, pre-qualification criteria of prospective and soliciting sealed proposals from interested, qualified parties, to the Public Utilities Commission (PUC) for review and approval. Upon approval by the PUC, the executive director shall cause the public notice to be published in accordance with law or regulation providing for publication of such notices.

(2) A private, business entity that is licensed in the Commonwealth and, for at least ten years, has been engaged in business that is closely related to the utility for which the request for proposal is being published pursuant to subsection (1), is hereby deemed qualified to submit a sealed proposal. This subsection shall not

