



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Timothy P. Villagomez**  
Lieutenant Governor

DEC 22 2006

The Honorable **Joseph M. Mendiola**  
Senate President, The Senate  
Fifteenth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

The Honorable **Oscar M. Babauta**  
Speaker, House of Representatives  
Fifteenth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law House Bill 15-191, HD2, entitled, "To make limited amendments to Public Utilities Commission A d (Public Law 15-35 (4 CMC §§8401-8461)), to amend Executive Order 2006-4 (4 CMC §§8111-8158), and for other purposes," which was passed by the Fifteenth Northern Mariana Commonwealth Legislature.

This bill becomes **Public Law No. 15-40**. Copies bearing my signature are forwarded for your reference.

Sincerely,

  
TIMOTHY P. VILLAGOMEZ

cc: Special Legal Counsels, Office of the Governor  
Legal Counsel, Office of the Lt. Governor  
Attorney General, Office of the Attorney General  
Secretary, Department of Commerce

**Secretary, Department of Finance**  
**Executive Director, Commonwealth Utilities Corporation**  
**Special Assistant, Office of Management and Budget**  
**All Department and Activity Heads**  
**Senior Policy Advisor**  
**Special Assistant to the Administration**  
**Special Assistant for Programs and Legislative Review**



*The House of Representatives*  
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
P.O. BOX 500586  
SAIPAN, MP 96950

December 22, 2006

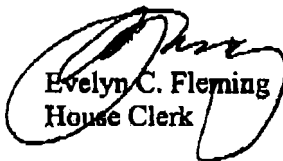
**PUBLIC LAW NO. 15-40**

The Honorable Timothy P. Villagomez  
Acting Governor  
Commonwealth of the Northern  
Mariana Islands  
Capitol Hill  
Saipan, MP 96950

Dear Acting Governor Villagomez:

I have the honor of transmitting herewith for your action H. B. No. 15-191, **HD2**, entitled: "To make limited amendments to the Public ~~Utilities~~ ~~Commission~~ Act (Public Law 15-35 (4 CMC §§ 8401-8461)), to amend Executive Order 2006-4 (4 CMC §§ 8111-8158), and for other purposes," The Bill was passed by the House of Representatives and the Senate of the Fifteenth Northern Marianas Commonwealth Legislature.

Sincerely yours,

  
Evelyn C. Fleming  
House Clerk

Attachment



**HOUSE OF REPRESENTATIVES**  
**FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE**  
FIFTH SPECIAL SESSION, 2006

PUBLIC LAW NO. 15-40  
**H. B. No. 15-191, HD2**

---

AN ACT

To make **limited amendments** to the Public Utilities Commission Act (Public Law 15-35 (4 CMC §§ 8401-8461)), to amend Executive Order 2006-4 (4 CMC §§ 8111-8158), and for other purposes.

---

**In the HOUSE OF REPRESENTATIVES**

Offered by **Representatives:** Ray N. Yumul, Oscar M. Babauta, end  
Francisco S. Dela Cruz

**Date:** November 24, 2006

Referred to: None  
Public Hearing: None  
Standing Committee Report: None

Passed First and Final Reading on November 24, 2006

---

**In the SENATE**

Referred to: Committee on Public Utilities, Transportation, and Communication  
Public Hearing: None  
Standing Committee Report: None

Passed Final Reading on December 21, 2006

---

  
Evelyn C. Fleming, House Clerk



HOUSE OF REPRESENTATIVES  
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
FIFTH SPECIAL SESSION, 2006

PUBLIC LAW NO. 15-40  
H. B. NO. 15-191, HD2

AN ACT

To make limited amendments to the Public Utilities Commission Act (Public Law 15-35 (4 CMC §§ 8401 - 8461)), to amend Executive Order 2006-4 (4 CMC §§ 8111 - 8158), and for other related purposes,

**BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

1           Section 1. **Short Title.** This Act may be cited as the "The PUC Amendments Act of  
2 2006."

3           Section 2. **Findings and purposes.** The Legislature finds that a few limited  
4 amendments are needed to further improve the Public Utilities Commission Act (Public Law  
5 15-35 (4 CMC §§ 8401-8461)) and Executive Order 2006-4 (4 CMC §§ 8111-8158).  
6 The Legislature further finds that regulation must be fair and flexible and advance the public  
7 interest. Regulators must be experts by reason of knowledge, experience or training and  
8 understand the needs of the CNMI and its people.

9           Amendments included in this act relate to the (1) qualifications of commissioners and  
10 (2) their ethical position. Other amendments (1) clarify the PUC's authority to issue interim  
11 orders for partial and immediate relief and to set rates that reflect various classes and types of  
12 service, and (2) allow the CUC to continue to conduct its business while the PUC is being  
13 constituted. CUC may also issue an RFP for power privatization and make an award  
14 contingent upon the contractor obtaining from the PUC a certificate of public convenience  
15 and necessity and an approval of its rates and CUC's divestiture. This Act is a necessary and  
16 proper use of the legislative authority granted by Article II of the Commonwealth  
17 Constitution.

1                   Section 3. Amendments to Commonwealth Code as Enacted in Public Law 15-35  
2 (4 CMC §§ 8401-8461) and Executive Order 2006-4 (4 CMC §§ 8111-8158).

3           (a)     4 CMC § 8403(a) is amended as follows:

4                   "(a)     There is established in the Commonwealth government the Public  
5 Utilities Commission, a regulatory agency, in accordance with Article III, Section 15  
6 of the Commonwealth Constitution. The **Commission** shall be an independent agency  
7 within the **executive branch of the Commonwealth government** and not part of any  
8 principal department. **The Commission** shall be **composed** of five **members** to be  
9 called Commissioners. **The Governor**, with **the confirmation** of both the Senate and  
10 the House of Representatives of the Commonwealth Legislature, shall appoint all five  
11 **members**. The **members** shall be of **good ethical** standing in their field of **expertise**  
12 **and** demonstrate **experience** in **business regulation**, in a business **regulated** by the  
13 Commission, **or** in accounting, **law**, **or** **engineering**, **The** Governor shall seek to  
14 appoint **members** with managerial or engineering **experience** in **one of the fields** of  
15 power engineering, **water** treatment, **wastewater management**, telecommunications,  
16 **cable** television **services**, and **accounting**. **At least** one **Commissioner** shall reside on  
17 Tinian, one Commissioner **shall** reside on **Rota**, and at **least three** Commissioners  
18 **shall** reside on **Saipan**."

19           (b)     4 CMC § 8403(j), the first sentence is mended to read as follows:

20                   "**No person** having a financial interest, as defined in 1 CMC 8503(f), in, or  
21 having **immediate** family with a financial interest in **any entity regulated** by the  
22 **Commission** or deriving **any** remuneration **from** any entity regulated by the  
23 Commission shall be eligible to **serve** as a Commissioner or be employed by the  
24 Commission."

25           (c)     4 CMC § 8409(f), the last sentence is amended to read as follows:

26                   "**Any rate change** shall be considered by the Commission **using** standards and  
27 **financial** criteria consistent with generally accepted rate-making principles and in **full**  
28 consideration of **the** requirements of maintenance of service **to the public**."

1 (d) 4 CMC § 8410 is amended to add a new subsection (e) to read as follows:

2 "(e) The power to issue interim orders, including orders for partial and  
3 immediate rate increases or decreases."

4 (e) 4 CMC § 8429 is repealed and reenacted to read as follows:

5 "\$8429. Rate Structure and Approval Procedures.

6 (a) A regulated entity may not charge or receive compensation for any  
7 regulated service or product other than through the rates, rents, fees and charges  
8 approved by the Commission.

9 (b) Every regulated entity shall present the Commission with a schedule of all  
10 rates, rents, fees, and charges it proposes to assess for regulated services of all types.

11 (c) A regulated entity shall not unduly discriminate or give undue preferences  
12 or advantages to any person or class of customers, or customers of a geographic area.  
13 Upon a finding that there is a cost of service benefit therefrom, the Commission may  
14 permit the preference, advantage, or discrimination pursuant to established  
15 ratemaking principles for purposes which include, but are not limited to, the  
16 following:

17 (1) economic development;

18 (2) energy conservation or independence;

19 (3) fuel and power source diversification;

20 (4) universal service and a due recognition to the affordability of  
21 service to low income customers;

22 (5) giving due recognition to the class of service, including but not  
23 limited to residential, commercial, government, industrial, and street lighting;  
24 and

25 (6) providing for geographically uniform rates, charges and fees  
26 among the islands of Rota, Tinian, and Saipan, and among geographic areas  
27 within an island."

1           **(9)**    4 CMC § 8430 is amended to add a new subsection (f) to read as follows:

2                   “(f) After first having given notice to the interested parties within the service  
3                   area to be affected and affording interested parties a reasonable opportunity for a full  
4                   and complete hearing, the Commission, after submission of all proofs, shall render a  
5                   final decision. The Commission may, in its discretion and for good cause shown,  
6                   upon written motion by any party, make a finding and enter an order granting partial  
7                   and immediate relief on less than a complete record. Revenues collected upon an  
8                   order for partial and immediate relief shall be collected subject to refund with  
9                   appropriate interest and upon such security as the Commission may require.”

10           (g) Section 3(b)(4)(B) of Public Law 15-35, which enacted 4 CMC § 8122(c), is  
11           repealed and reenacted to read as follows:

12                   “(c) Notwithstanding 4 CMC § 8439 and any other provision of law, the  
13                   Commonwealth Utilities Corporation may (1) issue a request for proposals to  
14                   privatize or transfer ownership, control, management, or operations, in whole or in  
15                   part, of a utility service and the property relating to that service, and (2) award such a  
16                   contract, contingent upon the contractor obtaining from the Public Utilities  
17                   Commission a certificate of public convenience and necessity required in 4 CMC  
18                   § 8441. The Commission's review shall include a determination as to whether the  
19                   divestiture and the contractor's proposed rates, charges, assessments, and costs are  
20                   consistent with the public interest. A business, that is licensed in the Commonwealth  
21                   and has been engaged for at least ten years in a business that is closely related to the  
22                   utility service for which the Commonwealth Utilities Corporation publishes a request  
23                   for proposals, shall be permitted to submit a proposal upon the payment of the  
24                   required fees.”

1 (h) Section 3 of Public Law 15-35 is amended to add a new subsection (b)(4)(C) to  
2 read:

3 "(C) A new subsection (d) is added to 4 CMC § 8122 to read as follows:

4 "(d) For the purposes of a **deliberate** and **uninterrupted** transition to regulation  
5 under the **Public** Utilities Commission, and notwithstanding §8425, §8429 **and** any  
6 other provision of law, the Commonwealth Utilities Corporation's power **and**  
7 **authority to set rates, fees, charges and rents shall** continue until such time as the  
8 Public Utilities **Commission shall** issue an **order setting** rates, fees, charges or **rents**  
9 for a **utility** service."

10 (i) **Section** 3 of Public Law 15-35 is **amended to add a new subsection (b)(4)(D) to**  
11 **read:**

12 "(D) 4 CMC § 8158(a) is **repealed** and reenacted to read as follows:

13 "§ 8158. **Review.** (a) Any person aggrieved by an act or omission of the  
14 corporation shall obtain **review** pursuant to 4 CMC §8435."

15 **Section 4. Severability.** If **any** provision of this **Act** or the application of **any** such  
16 provision to **any person** or circumstance should **be** held invalid by a court of competent  
17 jurisdiction, the remainder of this **Act** or the application of its provisions to **persons** or  
18 circumstances other than **those** to which it is held invalid shall **not** be **affected thereby.**

19 **Section 5. Savings Claw.** This **Act** and any repealer **contained** herein shall not be  
20 **construed** as affecting **any** existing right **acquired** under contract or acquired under **statutes**  
21 **repealed** or ~~under~~ **any** rule, regulation or order **adopted under the** statutes. Repealers  
22 contained in this Act shall not affect any proceeding instituted **under** or pursuant **to** prior law.  
23 The **enactment** of the **Act** shall not have the **effect** of terminating, **or** in **any way** modifying,  
24 any liability, civil or criminal, which shall already **be** in existence on **the date** this **Act**  
25 **becomes** effective.

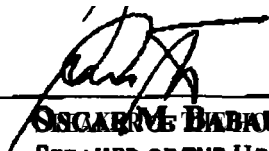
1  
2

Section 6. Effective Date. This Act shall take effect upon its approval by the Governor or becoming law without such approval,

CERTIFIED BY:

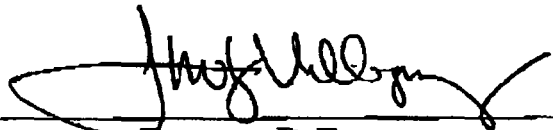
**A**

ATTESTED TO BY:

  
\_\_\_\_\_  
SOGORNE BABAUTA  
SPEAKER OF THE HOUSE

  
\_\_\_\_\_  
EVELYN C. FLEMING  
HOUSE CLERK

Approved on this 22<sup>nd</sup> day of December, 2006

  
\_\_\_\_\_  
BENIGNO R. FITIAL  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS