



HOUSE OF REPRESENTATIVES
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2006

PUBLIC LAW 15-35

H. B. No. 15-55, HS2, HD3, SD1

AN ACT

To create a Public Utilities Commission by repealing and reenacting 4 CMC § 8401 *et seq.*; and for other purposes.

BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Title.** This Act may be cited at the "Commonwealth Public Utilities
2 Commission Act of 2006."

3 **Section 2. Repealer and Re-enactment.** Title 4, Division 8, Chapter 4 is repealed
4 and re-enacted to read as follows:

5 **"CHAPTER 4. PUBLIC UTILITIES COMMISSION**

6 Article 1. General Provisions.

7 § 8401. **Short Title.** This Chapter may be cited as the Public Utilities Commission
8 Act.

9 § 8402. **Definitions.** As used in this Chapter:

10 (a) 'Cable Television Company' means any person or corporation that owns,
11 controls, administers, operates, manages, provides or resells, in full or in part, directly
12 or indirectly, any cable television line system or service in the Commonwealth and
13 has been granted a license to provide cable service in the Commonwealth.

14 (b) 'Commission' or 'PUC' means the Public Utilities Commission.

15 (c) 'Just and Reasonable' means that rate, charge or assessment cost which
16 enables a public utility, telecommunications company, and cable television company
17 an opportunity to finance its capital improvements needs, cover all its operating and
18 debt expenses, and earn a reasonable rate of return on its investment in the
Commonwealth.

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 (b) Three (3) Commissioners shall constitute a quorum. **An affirmative** vote of
2 a simple majority of the Commissioners present at a meeting where a quorum is
3 present shall be required for the Commission to Act or issue a decision.

4 § 8408. ***Annual Report.*** The Commission shall prepare and present to the Governor
5 and to the presiding officers of the Legislature, in January of each year, a report regarding its
6 actions during the preceding fiscal year, if any, together with its recommendations respecting
7 legislation.

8 **ARTICLE 2. GENERAL POWERS AND DUTIES**

9 § 8409. ***General Powers and Duties.*** The Commission shall have regulatory oversight
10 supervision over each regulated entity as set forth in this Chapter and shall perform the duties
11 and exercise the powers imposed or conferred upon it by this Chapter. The Commission in
12 the discharge of any of its duties or the exercise of any of its powers, except a final
13 determination affecting an entity, may act through one or more of its Commissioners
14 designated by the Commission for this purpose. In addition to the powers and duties
15 elsewhere conferred and imposed, the Commission shall:

16 (a) Regulate all rates, fares, fees, charges, services, rules, conditions of
17 service, and all other matters pertaining to the formation, operation, and/or direction
18 of a regulated entity.

19 (b) Investigate and examine any rates and charges assessed by any entity, and
20 all records pertinent thereto. The Commission may seek advice from an independent
21 expert and shall approve, disapprove, increase, or reduce rates for each entity.

22 (c) Establish and modify from time to time, reasonable rates and charges for
23 services, which when all rates for respective blocks of usage are considered together,
24 shall be at least adequate to cover the full cost of such service or subject to any
25 contractual agreements of each entity to the holders of any bonds and shall increase
26 rates or charges from time to time as may be necessary pursuant to any contractual
27 obligations.

28 (d) Review and approve or disapprove any divestiture of capital or contractual
29 agreement which may increase rates and charges to the consumer.

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
~1 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 § 8414. *Consumer Counsel*. In any proceeding before the Commission, the
2 Consumer Counsel of the Office of the Attorney General may intervene and participate as a
3 party.

4 **ARTICLE 3. GENERAL PROCEDURAL REQUIREMENTS OF COMMISSION**

5 § 8417. *Notice of Hearings*. Whenever an investigation or proceeding is undertaken
6 by the Commission, reasonable notice in writing of such fact and of the subject or subjects of
7 the investigation or proceeding shall be given to the entity concerned, and a notice in writing
8 of the date and place fixed by the Commission for beginning the investigation shall be served
9 upon the entity not less than two (2) weeks before the date designated for the hearing.

10 § 8418. *Public Hearings*. The Commission shall hold public hearings on any change
11 in proposed rates or charges.

12 (a) The notice of public hearing herein provided for shall plainly state the
13 rates, charges, or assessment costs proposed to be established, abandoned, modified,
14 or departed from, and the proposed effective date thereof.

15 (b) No hearing shall be held unless a notice of the hearing, with the purpose
16 stated thereof and the date, time, and place at which it will be held has been advertised
17 not less than once in each of three (3) consecutive weeks in a newspaper of general
18 circulation in the Commonwealth, the first publication being not more than twenty-
19 one (21) days before the scheduled hearing and the last publication being not less than
20 two (2) days before the scheduled hearing. The Commission may use additional
21 media such as radio or television to advise the public if it finds it necessary to do so.

22 (c) The entity shall notify its customers of the proposed change in rates in the
23 normal billing process not less than three (3) weeks before the date set for the public
24 hearing.

25 (d) All costs for public notice shall be borne by the entity requesting the rate
26 increase or modification.

27 § 8419. *Right to be Represented by Counsel*. At any investigation by or proceeding
28 before the Commission, the entity concerned shall have the right to be present and

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. Operatinn 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,

1 abandoned, modified, departed from, or changed without a public hearing and the
2 prior approval of the Commission.

3 (b) The Commission, upon notice to the regulated entity, may suspend the
4 operation of any proposed rate, charge, or assessment cost, or any proposed
5 abandonment, modification thereof, or departure therefrom, and after a public hearing
6 by order regulate, fix and change all such rates and charges so that the same shall be
7 just and reasonable.

8 § 8425. *Compliance*. Notwithstanding any other provision of law, no rate or charge
9 for any regulated entity shall become effective without the approval of the Commission. In
10 this respect a regulated entity shall comply with this Chapter in addition to complying with
11 any other condition, contractual obligation, or obligation imposed upon it by law.

12 ARTICLE 6. PENALTIES

13 § 8426. *Penalty*. Except where otherwise required in this Chapter, any person or
14 entity violating or neglecting or failing in any particular way to conform to or comply with
15 this Chapter or any lawful order of the Commission shall forfeit or pay to the Public Utilities
16 Commission not more than Five Hundred Dollars (\$500.00) for every violation, neglect, or
17 failure per day.

18 § 8427. *Perjury*. Any person who willfully and knowingly makes under oath any
19 false statement in connection with any investigation by or proceeding before the Commission
20 shall be guilty of perjury, and upon conviction, shall be subject to the penalty prescribed by
21 law for the offense.

22 ARTICLE 7. GENERAL MISCELLANEOUS PROVISIONS

23 § 8428. *Application to Interstate or Foreign Commerce*. This Chapter and every
24 provision thereof shall apply to commerce with foreign nations or to interstate commerce
except insofar as such application is not permitted under the Constitution and laws and
treaties of the United States or the Constitution of the Commonwealth of the Northern
Mariana Islands.

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;

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

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

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

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

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

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

(b) At any time, the provider of regulated telecommunications service may file 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 135th to the 160th 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.

ARTICLE 10. REGULATION OF CABLE TELEVISION

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2 § 8458. *Regulation of Cable Television.* The Legislature finds that currently the only
3 means of direct public local television coverage services is through cable television. It further
4 finds that need for adequate access to quality cable television services is in the best interest of
5 the public, and of necessity for the education of the community. Cable television companies
6 shall therefore be regulated in accordance with the requirements of applicable federal laws.

7 § 8459. *Rates, Charges, and Assessments.*

8 (a) All rates, charges, assessments, and costs made or charged by any cable
9 television shall be just and reasonable and in conformance with federal law.

10 (b) The Commission shall regulate rates, charges, assessments, including but
11 not limited to, connection fees, reconnection fees, line extension charges, etc. in
12 accordance with federal laws.

13 § 8460. An entity subject to and in compliance with this article as determined by the
14 PUC shall be exempt from § 8421 of this chapter; provided that, in order to qualify for and
15 maintain this exemption, the entity at all times shall provide, operate and make available one
16 television channel dedicated to local programming for a period of at least 12 hours per day,
17 free of charge to its cable television customers. No cost shall be charged against any person
18 for the sponsorship, transmission or dissemination of a program whose content or production
19 is directly or substantially paid for or supported by public funds. An entity who fails to
20 maintain its qualification for exemption under this subsection for more than 60 consecutive
21 days shall be barred permanently from obtaining such exemption.

22 § 8461. *Rule Making.* The Commission shall promulgate rules and regulations
23 necessary to implement the provisions of this Act."

24 **Section 3. CTC and CUC: Conforming Amendments.**

25 (a) Commonwealth Telecommunications Commission.

26 (1) Upon the effective date of this act, the Commonwealth
27 Telecommunications Commission (CTC) is hereby abolished and replaced by
28 the Commonwealth Public Utilities Commission (PUC) with respect to
29 regulatory authority and oversight jurisdiction over all telecommunication
30 utility matters. The PUC will exercise jurisdiction over such matters in

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
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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

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be construed to preclude entities who are not pre-qualified to submit a sealed proposal pursuant to this subsection."

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

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


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

CERTIFIED BY:

ATTESTED TO BY:

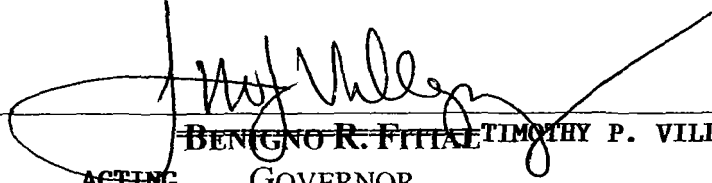


OSCAR M. BABAUTA
SPEAKER OF THE HOUSE



EVELYN C. FLEMING
HOUSE CLERK

Approved on this 24th day of October, 2006



~~BENIGNO R. FITIAL~~ **TIMOTHY P. VILLAGOMEZ**
ACTING GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS