



HOUSE OF REPRESENTATIVES
SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2008

PUBLIC LAW NO. 16-2
H. B. No. 16-79, SD3, HD2, SS1

AN ACT

To revise the Commonwealth Utilities Corporation's Utility Rate Structure to ensure CUC's continuing ability to deliver vital utility services; to provide flexibility to the governor and other expenditure authorities to reprogram funds for the remainder of fiscal year 2008; to suspend earmarking of certain non-general fund revenue; to authorize CUC to use a portion of customer security deposits to pay for its fuel expenses; to set the government employer contribution rate at 11% for fiscal year 2008; to increase certain government services fees; and for other purposes.

BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:

1 Section 1. Findings and Purpose. The Legislature finds that the Commonwealth is
2 undergoing a power crisis due to dilapidated power plant engines at the Commonwealth
3 Utilities Corporation (CUC) and the surging cost of fuel. The power rates have more than
4 doubled in order to keep up with the continued rising cost of fuel and rolling blackouts occur
5 to facilitate engine repairs or fuel conservation. The people of the Commonwealth are
6 suffering with exorbitant power rates in addition to the surging cost of gas at the pumps and
7 the increased cost of goods and commodities due to the implementation of shipping
8 surcharges and other factors.

9 In order to assist CUC customers, the Legislature enacted Public Law 15-94 to reduce
10 the power rates to a level that is affordable. However, the legislature finds that with the
11 continuing rise in fuel costs and the implementation of electric charges and rates pursuant to
12 Public Law 15-94 the CUC faces a shortfall approaching \$1 million each month for fuel
13 alone. The CUC must be subsidized to pay for the shortfall of its fuel payments. Without
14 these subsidies, compounded by the cost to rehabilitate, maintain and operate CUC's
15 deteriorating generator engines, the CUC is placed in an untenable financial situation that

1 will result in CUC being unable to purchase fuel and provide power, water, and sewer
2 services to the people of the Commonwealth. The Commonwealth as a whole will likely
3 suffer catastrophic, economic loss. Accordingly, this act intends to provide CUC with a fuel
4 subsidy by suspending earmarked non-General Fund revenue and appropriating such funds to
5 the Commonwealth Utilities Corporation to pay for its fuel expenses and amend Public Law
6 15-80 to allow CUC to use a portion of its customers security deposits to pay for its fuel
7 expenses.

8 Additionally, to avert CUC's total failure to produce power, the Legislature finds it is
9 in the public's best interest to suspend Public Law 15-94 up to December 31, 2008, pending
10 the adoption of a pennant rate structure by the Public Utilities Commission (PUC), and
11 temporarily restore the previous rate structure established by the Amendments to Part 24 of
12 the Electric Service Regulations of the Commonwealth Utilities Corporation as set forth in 28
13 Com. Reg. 9,26156 et seq. (Sept. 27, 2006), which became effective on October 27, 2006, to
14 give CUC the needed flexibility, pending rate making action by the Commonwealth Public
15 Utilities Commission.

16 Additionally, the Legislature finds that the PUC still has not realized its full
17 compliment of Commissioners, and it is necessary to affirmatively state that, once three
18 Commissioners have been nominated and confirmed, the PUC is to immediately begin
19 operations. Further, it is necessary to set the quorum regulations in the event that a
20 Commissioner resigns or retires when the PUC is not fully constituted with five
21 Commissioners, and to clarify and/or establish the PUC's authority in case of an emergency
22 to temporarily alter, amend or suspend any existing rate upon a showing of emergency need.

23 The Legislature further finds that the Commonwealth Government continues to face
24 financial challenges as a result of the economic downturn and revenue collection decline;
25 therefore, several fiscal measures must be taken to ensure continued delivery of essential
26 public services to the people of the Commonwealth. One such measure is to provide the
27 Governor and other expenditure authorities with greater flexibility in reprogramming funds
28 for the remainder of fiscal year 2008.

1 The Legislature further finds that the Commonwealth government is unable to pay its
2 retirement employer contribution of eighteen percent (18%) due to the continued decline in
3 revenue collection. Consistent with the foregoing measures, this Act also sets the
4 government retirement contribution rate for the Defined Benefit plan at 11% for Fiscal Year
5 2008. This measure is necessary to ensure the government's personnel costs remain within
6 the continuing appropriation authority levels set under Public Laws 15-28 and 15-71 and to
7 provide a fuel cost subsidy for CUC with fifty percent of the savings from the employer
8 retirement contribution.

9 Furthermore, the Legislature finds that many government services fees have remained
10 stagnant for over a decade while the costs of providing such services have increased during
11 the same period. Such increased costs of providing government services have burdened the
12 general fund and prevented government agencies from expanding and enhancing services to
13 the public. Therefore, it is necessary to increase the fees of various government services in
14 order to cover the cost of providing such services.

15 Section 2. Suspension of Public Law 15-94 Electrical Charges and Rates.

16 The electrical charges and rates set forth in Section 2 of Public Law 15-94 are hereby
17 suspended from the effective date of this Act to December 31, 2008.

18 Section 3. Electrical Charges, and Rates (Temporary). The rate structure
19 established by the Amendments to Part 24 of the Electric Service Regulations of the
20 Commonwealth Utilities Corporation as set forth in 28 Com. Reg. 9, 26156 et seq. (Sept. 27,
21 2006), which became effective on October 27, 2006, is hereby reinstated upon the effective
22 date of this Act; provided that the above rate structure shall be superseded by a rate structure
23 later adopted by the Commonwealth Public Utilities Commission, pursuant to Public Law 15-
24 35, as amended; provided further that the rates set forth in Public Law 15-94 shall become
25 effective and supersede temporary electrical charges and rates established pursuant to this
26 Act upon the failure of the Commonwealth Utilities Corporation and the Public Utilities
27 Commission to adopt an electrical rate structure on or before December 31, 2008.

1 Section 4. Reprogramming authority for Fiscal Year 2008.

2 (a) Notwithstanding any provision of law to the contrary, including but not limited to
3 1 CMC §§7205, 7402, 7403, and 7831, and subject to the funding levels set forth in Public
4 Law 15-71, the expenditure authorities in the legislative branch and the judicial branch, the
5 resident representative to the United States, the mayors, the chairperson of the Saipan and
6 Northern Islands Municipal Council, and the chairperson of the Tinian and Aguiguan
7 Municipal Council shall have authority to reprogram, in Fiscal Year 2008 all or a portion of
8 the funds under their expenditure authority as necessary to ensure the delivery of public
9 services; provided that the Mayor of Rota and the Mayor of Tinian and Aguiguan shall have
10 full reprogramming authority over all appropriations to the First Senatorial District and
11 Second Senatorial District, respectively, except for appropriations to the Rota Municipal
12 Council, which shall be distributed equally to each council member who shall be the
13 expenditure and reprogramming authority of said distributed funds.

14 (b) Notwithstanding any provision of law to the contrary, including but not limited to
15 1 CMC §§7205, 7402, 7403, and 7831, and subject to the funding levels set forth in Public
16 Law 15-71, the Governor, with respect to all other activities budgeted by fiscal year
17 appropriation and not under the expenditure authorities listed in subsection (a):

18 (1) Shall have unlimited authority to reprogram lapsed funding to cover
19 budget shortfalls, as the Governor deems fiscally prudent and in the best interest of
20 the public.

21 (2) Shall make a full report of reprogramming of lapsed funding and fund
22 balances under subsections (b)(1) of this section to the presiding officers of the
23 legislature, the chairperson of the House Committee on Ways and Means, and the
24 chairperson of the Senate Committee on Fiscal Affairs ~~on~~ or before the end of the
25 fiscal year. Such reports shall include a description of each item reprogrammed, the
26 reason for each reprogramming, the change in the approved budget caused by the
27 reprogramming, the cumulative amount of all reprogramming during the fiscal year,
28 and such other information as may be requested by the Chairpersons. The Governor

shall submit to the Chairpersons an annual summary of all reprogramming activity within 60 days after the end of a fiscal year.

(3) Shall not reprogram:

(A) Any funds under the expenditure authorities listed in subsection (a) of this section;

(B) Unappropriated local revenues; or

(C) Appropriations enacted by the local legislative delegations.

(4) For the purposes of this subsection (b) "lapsed funding" means any funds that are unencumbered and unobligated during the fiscal year.

(c) No funds may be reprogrammed to any account that, in effect, would exceed the level of authorized appropriations to pay for official representation, official hosting and related expenses, including but not limited to food, drinks, catering services, decorations, personal services, and materials and supplies.

(d) Reprogramming authority under this section shall be retroactive to October 1, 2007, and expire on September 30, 2008.

Section 5. Suspension & Appropriation of Certain Earmarked Non-General Fund Revenue.

(a) Notwithstanding any provision of law to the contrary, and except as provided under subsection (b), earmarking of non-General Fund revenue in the accounts listed in the attached Appendix "A" that have unencumbered, unappropriated fund balances, not to exceed the grand total stated in Appendix "A," shall be suspended for Fiscal Year 2008.

(b) The earmarked non-General Fund revenue listed below shall not be suspended for Fiscal Year 2008:

(1) Funds pursuant to Public Law 13-38 (including but not limited to Public Laws 14-80, 15-65, 15-79, and 15-106), except for \$1,200,000.00 which is suspended and hereby appropriated to pay for claims incurred prior to the privatization of the CNMI Government Group Health and Life Insurance Trust Fund, also known as the AETNA run-off claims;

(2) Fifty percent (50 %) of funds pursuant to Public Law 13-42;

1 (3) Funds pursuant to Public Law 11-82;

2 (4) Funds pursuant to 2 CMC § 5107; and

3 (c) The suspended earmarked non-General Fund revenue under subsection (a) of this
4 section in the amount of \$2,149,307.00 is hereby appropriated to the Commonwealth Utilities
5 Corporation for the payment of its fuel expenses.

6 (d) The suspension of earmarked funds under this section shall expire upon the
7 approval of a Fiscal Year 2008 appropriations act or on September 30, 2008, which ever
8 occurs earlier.

9 Section 6. Amendment. 4 CMC § 8143(b), as established by Public Law 15-80,
10 is hereby amended to read as follows:

11 "(b) *Residential Security Deposit.* The corporation shall collect from every
12 residential customer account a one month security deposit upon submission of an
13 application for utility service, provided that residential customers who have utility
14 connected when security deposit policy was not in place and are in good standing
15 shall not be disconnected due to the absence of such security deposit. Deposits shall
16 be placed in an interest-earning trust fund to be established by the Executive Director
17 of the corporation. Such funds shall not be used for any other purpose; except that
18 CUC may use up to fifty percent (50%) of the security deposit funds to pay for its fuel
19 expenses during fiscal year 2008 with the condition that CUC return the said funds
20 within a three-year period. An residential security deposit refunds shall be paid within
21 30 days after disconnection of such utilities and with earned interest."

22 Section 7. Employer Retirement Contribution Rate.

23 (a) Section 2(a) of Public Law 15-126 is hereby suspended for the entirety of Fiscal
24 Year 2008, beginning October 1, 2007. Notwithstanding any other provision of law, all
25 government departments, divisions, offices, municipalities, autonomous agencies, and public
26 corporations shall remit employer contribution payments for employees in the Defined
27 Benefit plan to the Northern Mariana Islands Retirement Fund based on a new rate of eleven
28 percent (11 %) of the employee's salary for Fiscal Year 2008. All expenditure authorities and
29 the Department of Finance shall ensure that employer contribution amounts incurred after the

1 effective date of this Act and amounts that have accrued but are unpaid since October 1,
2 2007, until the effective date of this Act shall be paid in equal installments to the Northern
3 Mariana Islands Retirement Fund.

4 (b) Section 2(b) of P.L. 15-126 shall remain in effect. The government acknowledges
5 its obligation to the Retirement Fund for deficient employer contributions and statutory
6 penalties; provided further that the difference for the Northern Marianas College shall accrue
7 as a liability for the central government.

8 (c) Section 2(c) of P.L. 15-126 is repealed and reenacted to read as follows:

9 (c) This section shall apply to salaries funded from the general fund and
10 salaries from other locally, generated revenue sources of autonomous agencies and
11 public corporations."

12 (d) Section 2(d) of P.L. 15-126 shall remain in effect, except that the Commissioner
13 of Education shall be the expenditure authority for apportioned funds.

14 (e) Section 2(e) of P.L. 15-126 shall remain in effect. The Board of Trustees of the
15 N.M.I. Retirement Fund shall be authorized to use sound fiscal management to prudently
16 reallocate the Retirement Fund assets as needed in order to protect from diminishment and
17 impairment of retirement benefits of its members.

18 (f) The difference between the 18% retirement employer contribution rate for general
19 fund employers or actuarially calculated contribution rate for autonomous agencies and
20 public corporations and the sum remitted by such general fund employers, autonomous
21 agencies, and public corporations, except for the Commonwealth Utilities Corporation, and
22 fifty percent (50%) of the difference of the employer contribution of the Public School
23 System and the Northern Marianas College, shall be deposited into a special account within
24 the General Fund and appropriated as follows:

25 (1) Fifty percent (50%) of the funds to Commonwealth Utilities Corporation
26 to pay for its fuel expenses.

27 (2) \$80,000.00 to the Public Utilities Commission (PUC) for its start-up costs
28 and operating expenses for fiscal year 2008; provided that the PUC shall reimburse

1 the general fund the appropriated funds upon such time that it is duly organized and
2 has access to funds under its expenditure authority.

3 (3) The remaining funds shall be expended pursuant to the reprogramming
4 authority set forth in Section 4(b) of this Act.

5 Section 8. Various Government Services Fees.

6 (a) Notwithstanding any law, rule, or regulation to the contrary, fees for the
7 following government services shall be increased by one hundred percent (100%):

8 (1) Renewal of vehicle operator's license, taxicab driver's license, chauffeur's
9 license, and learner's pennits, including but not limited to, replacement for duplicate, lost, or
10 stolen licenses.

11 (2) Vehicle registration fees, including but not limited to, replacement for lost
12 registration, lost license plates, customized license plates, stolen license plates, and certificate
13 of ownership.

14 (3) Boat registration fees, including but not limited to boat trailers.

15 (4) Fireanns licenses.

16 (5) Firearms registration fees per firearm.

17 (6) Fingerprinting fees per set.

18 (7) Police report fees based on the number of pages.

19 (8) Safety sticker fees.

20 (9) Copies of any public records maintained by the Department of Public Safety.

21 (10) Marriage license fees.

22 (b) The Department of Public Safety shall promulgate rules and regulations necessary
23 to establish the appropriate fees for subsections (a)(1) through (9) and (b) as listed in Section
24 8 of this Act; provided that the said fees shall not be decreased below the one hundred
25 percent (100%) increased as set forth in Section 8 of this Act.

26 (c) The Office of the Governor in consultation with the Department of Finance shall
27 establish the appropriate fees for subsection (a)(10) of Section 8 of this Act; provided that the
28 said fees shall not be decreased below the one hundred percent (100 %) increased as set forth
29 in Section 8 of this Act.

1 (d) Fifty percent (50 %) of the fees collected pursuant to Section 6 of this Act shall be
2 deposited into a special account within the General Fund and appropriated to the
3 Commonwealth Utilities Corporation to pay for its fuel expenses.

4 Section 9. Amendment. 1 CMC § 8362(e) is repealed and re-enacted as follows:

5 "(e) Any employer who fails to pay or remit contributions as required by this
6 part shall pay a penalty on the amount of unpaid contributions of 10 percent if paid
7 within 30 days after the payment is due, 20 percent if paid within 60 days after the
8 payment is due, and 25 percent if paid within 61 days or more after the payment is
9 due."

10 Section 10. Repealer. 4CMC § 1304 is hereby repealed in its entirety.

11 Section 11. Amendment. Section 8431 of Title 4 of the Commonwealth Code, as
12 enacted by Public Law 15-35, is hereby amended by adding a new subsection (f) as follows:

13 "(f) Emergency rates. Notwithstanding any other provision of this act, or law, the
14 Commission may order into effect emergency, interim rates, as follows, upon a finding that
15 an emergency exists to the detriment of the public interest if such action to adjust rates is not
16 taken; there has been a substantial increase in expenses or decrease in revenues of a regulated
17 utility not attributable to circumstances reasonably within the control of the utility; the utility
18 would be unable to continue to provide adequate and reliable service pending resolution of a
19 permanent rate case; there is an imminent threat of insolvency or a liquidity crisis
20 constituting an immediate and irreparable threat to the interests of the utility or the
21 customers; or the regulated entity's current rates are obviously confiscatory. With respect to
22 this subsection, and notwithstanding any other provision of this act, as amended, or other law,
23 no prior public hearing or notice shall be required for the Commission's receipt of any
24 proposed rate change or supporting documents, consideration" discussion or deliberation
25 concerning the matters presented, the issuance of an order or the imposition of a rate, fee,
26 charge or other requirement concerning a regulated entity imposed. "

27 Section 12. Amendment. Section 8407 of Title 4 of the Commonwealth Code, as
28 enacted by Public Law 15-35, is hereby amended by adding a new subsections (c) and (d), as
29 follows:

1 (c) Notwithstanding any other provision of law or any provision of any executive
2 order, once three Commissioners have been appointed and confirmed, the PUC is deemed
3 organized and no further action shall be required for the Commission to begin its duties; the
4 Commission shall commence operations immediately.

5 (d) Notwithstanding subsection (b), once three commissioners have been appointed
6 and confirmed, any event, be it resignation, removal, or otherwise, which reduces the number
7 of Commissioners below three shall not divest the Commission of its authority, and the PUC
8 shall continue its duties shorthanded until such time as additional commissioners have been
9 duly appointed and confirmed. If, for any reason, the Commission consists of only two
10 Commissioners, then a quorum for the conduct of the PUC's business shall be two and
11 decisions shall be unanimous until such time as an additional Commissioner or
12 Commissioners shall be duly nominated and confirmed. If the Commission consists of a sole
13 Commissioner, than a quorum for the conduct of the Commission's business shall be one,
14 whose decisions, rules or orders shall be valid and effective for not more than 60 days, unless
15 extended for an additional 30 days upon a finding that the extension is in best interest of the
16 public."

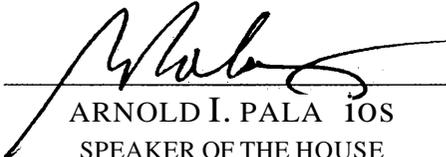
17 Section 13. Severability. If any provision of this Act or the application of any such
18 provision to any person or circumstance should be held invalid by a court of competent
19 jurisdiction, the remainder of this Act or the application of its provisions to persons or
20 circumstances other than those to which it is held invalid shall not be affected thereby.

21 Section 14. Savings Clause. This Act and any repealer contained herein shall not be
22 construed as affecting any existing right acquired under contract or acquired under statutes
23 repealed or under any rule, regulation, or order adopted under the statutes. Repealers
24 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
25 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
26 any liability, civil or criminal, which shall already be in existence on the date this Act
27 becomes effective.

1 Section 15. Effective Date. This Act shall take effect upon its approval by the
2 Governor or becoming law without such approval.

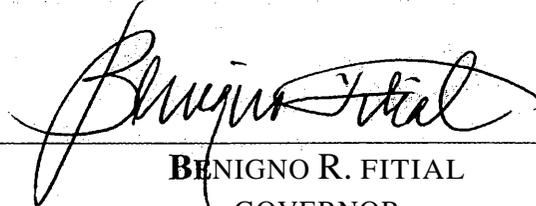
CERTIFIED BY:

ATTESTED TO BY:


ARNOLD I. PALA IOS
SPEAKER OF THE HOUSE


EVELYN C. FLEMING
HOUSE CLERK

APPROVED on this 3rd day of MAY, 2008


BENIGNO R. FITIAL
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF FINANCE
AVAILABLE NON GENERAL FUND REVENUE SOURCES
AS JANUARY 26, 2008

Attachment "A"

BU/Acct.	Description	Available
Fund'1013 - Active Revolving Accounts Available Balances:		
1699	Board of Nursing Examiners	18,456
1931	PL 12-48 DPH Environmental Quality/Sanitation Revolving	44,855
1937	PL 14-52 AGO Notary Public Act	2,112
1953	PL 13-12 Saipan Ambulance Fee Revolving	71,838
1954	1954 PL 13-12 Tinian Ambulance Fee Revolving	400
1955	1955 PL 13-12 Rota Ambulance Fee Revolving	0
1956	1956 PL 14-52 Court Notary Public Act	329
1960	1960 Homeland Security Office (indirect cost)	78,505
Total Fund		\$216,495
Developer's Tax Fund Available balances		
3730	Developer's Tax Saipan (over appropriated)	0
3731	Developer's Tax Tinian	5,522
3732	Developer's Tax Rota	0
Total Fund		\$5,522
Solid Waste Revolving Fund Available Balances		
2082	Saipan Solid Waste Management balance	84,803
2082	FY08 projected additional revenue (FY08 revenue est.)	643,169
2082	FY08 projected additional revenue (tipping fees)	156,000
2083	Rota Solid Waste Management balance	72,437
2083	FY08 projected additional revenue (FY08 revenue est.)	80,396
2084	Tinian Solid Waste Management balance	72,764
2084	FY08 projected additional revenue (FY08 revenue est.)	80,396
Total Fund		\$1,189,964
Deportation Fund		
3490	Deportation Fund Balance	365,974
3490	FY08 projected additional revenue (FY08 revenue est.)	335,400
Total		\$701,374
Tobacco License Revolving Fund (PL 11 -751)		
6077	Dept of Commerce Enforcement	10,478
6082	Dept of Public Health	899
6083	Dept of Public Safety	38
Total Fund		\$11,415
Parole Services Fund (PL 14-33)		
6086	Parole Supervision-Parole Board PL 14-33	951
6087	Parole Supervision-DOF PL 14-33	99
Total Fund		\$1,050
Agricultural Equipment Service Fund (PL 13-28)		
6015	Saipan	2,174
6017	Tinian	9,197
6016	Rota	913
Total Fund		\$12,284

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF FINANCE
AVAILABLE NON GENERAL FUND REVENUE SOURCES
AS JANUARY 26, 2008

<u>BU/Acct.</u>	<u>Description</u>	<u>Available</u>
Zoning Board Revolving Fund (2 CMC 7255)		
6095	Zoning Board	8,446
Total	Total Fund	<u>\$8,446</u>
Law Revision Commission Revolving Fund (1 CMC 3809)		
6011	Law Revision Commission	2,757
Total Fund		<u>2,757</u>
Grand	Grand Total	<u>\$2,149,307</u>