

SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

TENTH SPECIAL SESSION, 2008

PUBLIC LAW NO. 16-9  
SENATE BILL NO. 16-38, SDI

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AN ACT

TO AMEND THE COMMONWEALTH PUBLIC UTILITIES COMMISSION ACT OF 2006 TO PERMIT THE COMMONWEALTH UTILITIES CORPORATION TO PROCURE EMERGENCY POWER WITHOUT APPROVAL OF THE PUBLIC UTILITIES COMMISSION, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

21 Section 1. Findings and purpose. The Commonwealth Legislature finds that the  
22 Commonwealth Public Utilities Commission Act of 2006 must be amended to permit the  
23 Commonwealth Utilities Commission (CUC) to procure emergency power during periods of  
24 declared power emergencies. The Legislature finds that the provisions of the Act, including  
25 but not limited to 4 CMC §§8402, 8409, 8439, and 8441, should not prevent CUC from  
26 entering into limited term contracts for emergency power without the approval of PUC.

27 Section 2. Amendments.

28 (a) A new subsection (c) is added to 4 CMC 8402, with subsequent subsections re-  
29 lettered accordingly, to read as follows:

30 "(c) "Emergency wholesale power generation contract" means a contract between  
31 CUC and person for a term of two years or less made pursuant to a declaration by the  
32 Governor under 3 CMC §5121."

33 (b) 4 CMC §8402(e) is amended and relettered as (f) as follows:

34 "(f). "Public utility" means the Commonwealth Utilities Corporation and any duly  
35 licensed private contractor operating:

- 36 (1) A facility or subsystem of the community-wide water production and  
37 distribution system or electrical production and/or distribution system; or

2 (2) A facility or subsystem of the community-wide waste water disposal  
3 system, or both.

4 A person who contracts with CUC for an emergency wholesale power generation  
5 contract is not a "public utility" within the meaning of this subsection."

6 (c) 4 CMC §8409(d) is amended as follows:

7 "(d) Except for an emergency wholesale power generation contract as defined in 4  
8 CMC §8402(c), review and approve or disapprove any divestiture of capital or  
9 contractual agreement which may increase rates and charges to the consumer."

10 (d) A new subsection (o) is added to 4 CMC §8409 to read as follows:

11 "(o) Notwithstanding any other provision of this chapter, PUC shall not have the  
12 power or duty to review an emergency wholesale power generation contract."

13 Section 3. Retrospective Approval of Existing Contracts. The Governor may  
14 issue a retrospective declaration pursuant to 3 CMC §5121 for any contract in existence on  
15 the effective date of this Act provided that the contract is for a term of two years or less and  
16 is for emergency wholesale power generation. Such contracts shall not be reviewable by  
17 PUC, and the wholesale provider shall not be considered a public utility under 4 CMC  
18 §8402(f) for the duration of the contract.

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

23 Section 5. Savings clause. This Act and any repealer contained herein shall not be  
24 construed as affecting any existing right acquired under contract or acquired under statutes  
25 repealed or under any rule, regulation or order adopted under the statutes. Repealers  
26 contained in this Act shall not affect any proceeding instituted under or pursuant to prior  
27 law. The enactment of the Act shall not have the effect of tenninating, or in any way  
28 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.

Section 7. Sunset Clause. This Act expires on September 30,2010.

CERTIFIED BY:

ATTESTED BY:

  
PETE P. REYES

PRESIDENT OF THE SENATE

  
MARIA FRISCA T. PANGELINAN

SENATE LEGISLATIVE SECRETARY

APPROVED this 1<sup>st</sup> day of AUGUST, 2008

  
BENIGNO R. FITIAL  
Governor

Commonwealth of the Northern Mariana Islands