



17-432

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Eloy S. Inos**  
Lieutenant Governor

**31 AUG 2012**

Honorable Eliceo D. Cabrera  
Speaker, House of Representatives  
Seventeenth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

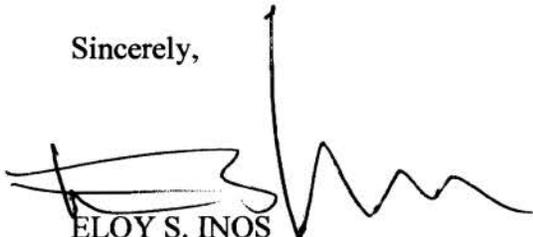
Honorable Paul A. Manglona  
Senate President, The Senate  
Seventeenth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 17-214, SS1, SD1, CCD1 entitled, "To amend 4 CMC §§ 8403(e) & (g), 8407(d), 8454(d) and 8483 of the Public Utilities Commission Act of 2006; and for other purposes," which was passed by the House of Representatives and the Senate of the Seventeenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 17-81**. Copies bearing my signature are forwarded for your reference.

Sincerely,



ELOY S. INOS  
Acting Governor

cc: Governor; Attorney General's Office; Press Secretary; Special Assistant for Administration; Special Assistant for Programs and Legislative Review

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*Seventeenth Legislature  
of the  
Commonwealth of the Northern Mariana Islands*  
**IN THE HOUSE OF REPRESENTATIVES**

**Fourth Regular Session**

**August 26, 2012**

Representative Stanley T. McGinnis Torres, of Saipan, Precinct 3 (*for himself*) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

**H. B. 17-214**

**AN ACT**

**TO AMEND 4 CMC, DIVISION 8, CHAPTER 4, §8407, "THE COMMONWEALTH PUBLIC UTILITIES COMMISSION ACT OF 2006".**

The Bill was referred to the House Committee on Public Utilities, Transportation, and Communications, which submitted Standing Committee Report 17-98 which was adopted on September 15, 2012.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON  
FIRST AND FINAL READING, SEPTEMBER 15, 2011;  
*without amendments* and transmitted to the  
THE SENATE.**

The Bill was referred to the Senate Committee on Public Utilities, Transportation, and Communications, and was placed on the Bill Calendar.

**THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, MARCH 7, 2012;  
*with amendments* in the form of H. B. 17-214, SS1, SD1.**

**H. B. 17-214, SS1, SD1 WAS RETURNED TO THE HOUSE OF REPRESENTATIVES ON MARCH 9, 2012.**

The House of Representatives rejected the Senate amendments and the Bill was sent to Conference, which submitted Conference Committee Report 17-12 in the form of H. B. 17-214, SS1, SD1, CCD1.

**THE BILL WAS FINALLY PASSED BY THE HOUSE OF REPRESENTATIVES ON AUGUST 3, 2012 AND BY  
THE SENATE ON AUGUST 8, 2012.**

A handwritten signature in black ink, appearing to read "L. Muña".

Linda B. Muña, House Clerk



*Seventeenth Legislature  
of the  
Commonwealth of the Northern Mariana Islands*  
**IN THE HOUSE OF REPRESENTATIVES**

1<sup>st</sup> Day, Sixth Regular Session

August 3, 2012

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**H. B. 17-214, SS1, SD1, CCD1**

**AN ACT**

**TO AMEND 4 CMC §§ 8403(E)&(G), 8407(D), 8454(D) AND 8483 OF  
THE PUBLIC UTILITIES COMMISSION ACT OF 2006; AND FOR  
OTHER PURPOSES.**

**Be it enacted by the Seventeenth Northern Marianas Commonwealth  
Legislature:**

1           **Section 1. Findings and Purpose.** The Commonwealth Legislature finds that the  
2 Commonwealth Public Utilities Commission Act of 2006, in particular 4 CMC §8407 of the  
3 Commonwealth Code, was amended in 2008 by Public Law 16-2, Section 12, subsection (c),  
4 in order to establish the official commencement of the Public Utilities Commission's (PUC)  
5 duties and operations. This commencement of PUC's duties and operations was deemed  
6 activated once three Commissioners had been duly appointed and confirmed.

7           The Legislature further finds that Public Law 16-2 took one step further in amending  
8 4 CMC §8407 by adding a subsection (d), which undermined the original legal mandate of  
9 the Commonwealth Public Utilities Commission Act of 2006 {4 CMC §8403(a) &

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1 §8407(b)}, which stated that at least three of the five mandated commissioners shall be  
2 present to constitute a quorum for the Commission to act or issue a decision. The added  
3 subsection (d) to 4 CMC §8407, states: "Notwithstanding subsection (b), once three  
4 Commissioners have been appointed and confirmed, any event, be it resignation, removal, or  
5 otherwise, which reduces the number of Commissioners below three shall not divest the  
6 Commission of its authority, and the PUC shall continue its duties shorthanded until such a  
7 time as additional commissioners have been duly appointed and confirmed. If, for any reason,  
8 the Commission consists of only two Commissioners, then a quorum for the conduct of the  
9 PUC's business shall be two and decisions shall be unanimous until such a time as an  
10 additional Commissioner or Commissioners shall be duly appointed and confirmed. If the  
11 Commission consists of a sole Commissioner, then a quorum for the conduct of the  
12 Commission's business shall be one, whose decisions, rules, or orders shall be valid and  
13 effective for not more than 60 days, unless extended for an additional 30 days upon a finding  
14 that the extension is in the best interest of the public." This additional subsection (d) creates a  
15 potential for a continuously diluted Commission, which could continue its duties with any  
16 number below three, e-g., two, one, or "zero".

17       The Legislature also finds that the intent of P.L. 16-2 to keep the PUC functioning in  
18 case of a "shorthanded" commission does not outweigh the importance of having a full five-  
19 member commission, or a bona fide three-member quorum, to conduct the PUCs business in  
20 a more fair, impartial, and professional manner. The monitoring and regulating of our public  
21 utilities is such a critical issue in the CNMI, with the skyrocketing and at times falling fuel  
22 costs, the rising but sometimes not falling electrical costs, and a convoluted LEAC system

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1 that supposedly adjusts the CUC customer costs to the prevailing price of oil. Therefore, in  
2 the best interests of the people of the Commonwealth and to possibly avoid costly legal  
3 arguments, an re-enactment of (c) and a repeal of subsection (d) of 4 CMC §8407 is  
4 justifiable and most prudent.

5 The Legislature further finds that other provisions of the Public Utilities Commission  
6 Act must also be amended in order to improve the Act. First, it is necessary to amend 4  
7 CMC § 8403(e)&(g) to eliminate the restriction of a government employee being appointed  
8 to the Commission and to change the education requirement of a commissioner to a two-year  
9 academic degree because it has been difficult to appoint qualified persons to the Commission  
10 who are not employed by the government or possess at least a four-year academic degree.  
11 Second, 4 CMC §§ 8454(d) and 8483 to require all regulated entities to pay the annual charge  
12 imposed by the Commission in order to level the playing field. However, television  
13 companies may be given a discount in exchange for providing at least 12 hours of public,  
14 educational, and governmental access channel for free for the public.

15 **Section 2. Amendment.** 4 CMC § 8403(e) and (g), as amended by Public Law 17-  
16 34, are amended to read as follows:

17 **“§ 8403. Public Utilities Commission: Establishment and Commissioners.**

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

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1 (g) A commissioner shall be qualified to vote in the Commonwealth, be at  
2 least twenty-five years of age, and a resident and domiciliary of the Commonwealth  
3 for at least five years immediately preceding the date on which the members takes  
4 office. All commissioners shall have at least graduated from an accredited university  
5 or college with a two-year academic degree and at least two years of managerial  
6 experience.”

7 **Section 3. Amendment.** 4 CMC § 8407(d) is hereby repealed and reenacted to read  
8 as follows:

9 **“§ 8407. Operation of Commission: Additional.**

10 (d) Notwithstanding any other provision of law or any provision of any  
11 executive order, any pending business of the Public Utilities Commission prior to the  
12 enactment of this Act shall remain valid until such time that the Commission is able  
13 to meet quorum and takes action upon such business. If, for any reason, the  
14 Commission fails to meet quorum, all pending business shall remain valid until such  
15 time that the Commission is able to meet quorum and takes action upon such  
16 business.”

17 **Section 4. Amendment.** 4 CMC § 8454(d) is hereby amended to read as follows:

18 **“8454. Certification of Public Utility Companies**

19 (d) *Existing Franchises.* The Commonwealth Utilities Corporation shall not  
20 be required to obtain a certificate of public convenience and necessity from the  
21 Commission but be subject to Section 8426 of this Chapter. In the event that the  
22 Commonwealth Utilities Corporation privatizes its power, water, or sewer division,

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1 the private company or contractor that operates the power, water, or sewer division  
2 shall be required to obtain a certificate of public convenience and necessity from the  
3 Commission and be subject to Section 8426 of this Chapter.”

4 **Section 5. Amendment.** 4 CMC § 8483 is hereby repealed and reenacted to read as  
5 follows:

6 **“§ 8483. Public, Educational, Governmental Access Channel.**

7 Cable television companies shall be subject to Section 8426 of this Chapter;  
8 provided that cable television companies may be eligible for a discounted annual  
9 charge imposed by Section 8426(c) of this Chapter as determined by the Commission  
10 if the company at all times shall provide, operate and make available cable television  
11 free of charge to public hospitals and clinics operating 24 hours a day and at least one  
12 public, education, government access television channel to be selected from any  
13 channel in the 2 through 14 range of channels dedicated to local programming for a  
14 period of at least 12 hours per day (9:00 am to 9:00 pm), free of charge to its cable  
15 television customers. No cost shall be charged against any person for the  
16 sponsorship, transmission or dissemination of a program whose content or production  
17 is directly or substantially paid for or supported by public funds.”

18 **Section 6. Severability.** If any provisions of this Act or the application of any such  
19 provision to any person or circumstance should be held invalid by a court of competent  
20 jurisdiction, the remainder of this Act or the application of its provisions to persons or  
21 circumstances other than those to which it is held invalid shall not be affected thereby.

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1           **Section 7. Savings Clause.** This Act and any repealer contained herein shall not be  
2 construed as affecting any existing right acquired under contract or acquired under statutes  
3 repealed or under any rule, regulation, or order adopted under the statutes. Repealers  
4 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.  
5 The enactment of the Act shall not have the effect of terminating, or in any way modifying,  
6 any liability, civil or criminal, which shall already be in existence on the date this Act  
7 becomes effective.

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1           **Section 8. Effective Date.** This Act shall take effect upon its approval by the  
2 Governor, or its becoming law without such approval.

Attested to by:   
Linda B. Muña, House Clerk

Certified by:   
SPEAKER ELYCEO "ELI" D. CABRERA  
House of Representatives  
17<sup>th</sup> Northern Marianas Commonwealth Legislature

~~APPROVED~~ this 31<sup>STH</sup> day of AUGUST, 2012

  
ELOY S. INOS  
Acting Governor  
Commonwealth of the Northern Mariana Islands