



GOV. COMM. 15-187  
(HOUSE)

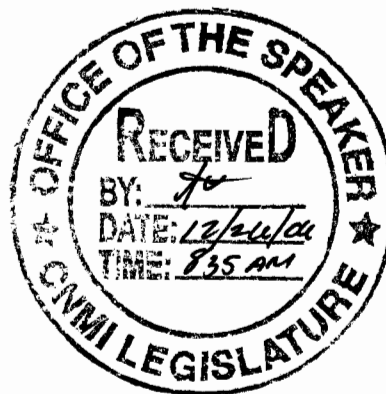
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Timothy P. Villagomez**  
Lieutenant Governor

DEC 22 2006

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



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

Dear Mr. President and Mr. Speaker:

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

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

Sincerely,

TIMOTHY P. VILLAGOMEZ

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

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



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

December 22, 2006

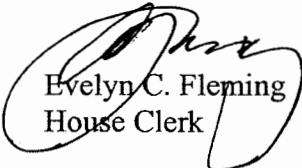
**PUBLIC LAW NO. 15-40**

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

Dear Acting Governor Villagomez:

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

Sincerely yours,



Evelyn C. Fleming  
House Clerk

Attachment



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

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

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**AN ACT**

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

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**In the HOUSE OF REPRESENTATIVES**

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

**Date:** November 24, 2006

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

**Passed First and Final Reading on November 24, 2006**

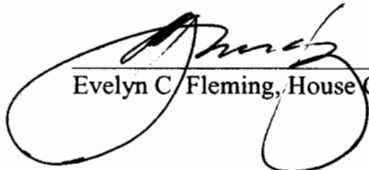
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**In the SENATE**

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

**Passed Final Reading on December 21, 2006**

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Evelyn C. Fleming, House Clerk



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

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

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**AN ACT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “§ 8429. Rate Structure and Approval Procedures.

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

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

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

17 (1) economic development;

18 (2) energy conservation or independence;

19 (3) fuel and power source diversification;

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

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

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

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

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

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

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



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

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

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

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

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

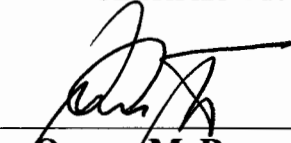
13 “§ 8158. Review. (a) Any person aggrieved by an act or omission of the  
14 corporation shall obtain review pursuant to 4 CMC § 8435.”

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

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

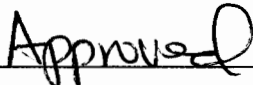
1           Section 6. Effective Date. This Act shall take effect upon its approval by the  
2 Governor or becoming law without such approval.

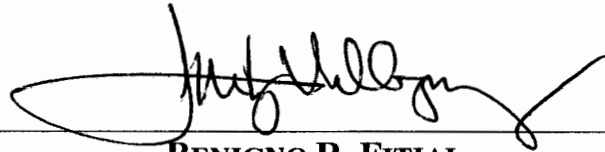
CERTIFIED BY:

  
\_\_\_\_\_  
OSCAR M. BABAUTA  
SPEAKER OF THE HOUSE

ATTESTED TO BY:

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

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

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