



COMMITTEE ON RULES

Senator Chris Barnett, Chairperson
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

January 30, 2024

To: **Joaquin P. Taitague**
Clerk of the Legislature

Attorney Darleen Hiton
Legislative Legal Counsel

From: **Senator Chris Barnett** 
Chairperson, Committee on Rules

Subject: **Addendum for the Reappointment of Peter B. Montinola to serve as a Commissioner (Telecommunications - Representative) of the Public Utilities Commission (PUC), for processing.**

Håfa Adai yan Biba Guåhan!

Attached is an **Addendum for the Reappointment of Peter B. Montinola to serve as a Commissioner (Telecommunications - Representative) of the Public Utilities Commission (PUC), for processing**, to be processed and posted on the legislature website for public accessibility.



**RE: Amendment of the Travel Rules and Regulations of the Guam Public Utilities Commission**

1 message

Fred Horecky <horeckylaw@teleguam.net>

Fri, Jan 26, 2024 at 7:48 AM

To: Senator Will Parkinson <senatorparkinson@guamlegislature.org>, phnotice@guamlegislature.org, Ed Pocaigue <sgtarms@guamlegislature.org>
Cc: Lou Palomo <lpalomo@guampuc.com>, Colleen Chlarson <cchlarsen@guampuc.com>

Dear Senator Parkinson:

I am pleased to inform you that, at the meeting of the Guam Public Utilities Commission yesterday evening, the Commissioners voted unanimously (6-0) to amend the Travel Rules and Regulations of the PUC. The Travel Rules now provide that Commissioners, Administrative Law Judges, Counsel, on-island Consultants and Staff will henceforth only travel by economy fare. The only exception is for off-island United States mainland Consultants who fly for more than five hours, who will be allowed to travel business class fare. Several of the PUC US mainland Consultants already have contract provisions that provide for business class travel.

I enclosed the ALJ Report, the PUC Order, and the amended Travel Rules and Regulations. The Order has been signed by the Commissioners.

Please let me know if you have any questions. Thank you.

Sincerely,

Fred Horecky

Chief Administrative Law Judge

Guam Public Utilities Commission

c/o Law Office of Frederick J. Horecky

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3 attachments

ALJ REPORT TRAVEL RULES AND REGULATIONS.2024.01.15.pdf
623K

ORDER TRAVEL RULES AND REGULATIONS.2024.01.12 .pdf
165K

01.02.2024 Amended PUC Travel Rules Regulations and Policies.docx
32K

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

| | | |
|-------------------------------|---|-----------------------|
| IN THE MATTER OF: |) | ADMINISTRATIVE DOCKET |
| |) | |
| TRAVEL RULES, REGULATIONS AND |) | |
| POLICIES OF THE GUAM PUBLIC |) | ALJ REPORT |
| UTILITIES COMMISSION |) | |
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INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] upon the request of PUC Chairman Jeffrey Johnson to examine and review the PUC Travel Rules, Regulations and Policies, and particularly, the provision by the PUC of business class fare for authorized air travel.

BACKGROUND

On December 13, 2023, the Chairperson of the Committee on Power and Energy Utilities (and other matters), Senator William A. Parkinson, convened a public hearing on the Reappointment of three Commissioners to PUC: Joseph M. McDonald, Peter B. Montinola and Jeffrey C. Johnson. During the legislative public hearing, the three Commissioners presented detailed testimony concerning their service on the PUC, operations of the PUC, and current issues facing the PUC.

Toward the end of the hearing, Chairperson Parkinson stated that he wished to address “housekeeping matters.” He then referred to a travel report that ALJ Horecky had filed with the PUC in November 2021, which indicated that Horecky had travelled to Reno, Nevada, on business class airfare. Horecky attended an intensive five-day course on Mediation’ sponsored by the National Judicial College at the University of Nevada. Mediation is a skill which Horecky has been required to use for the PUC in mediating

disputes involving the Guam International Country Club, telecommunications companies, and utilities in rate cases.

During the hearing there was also testimony by the PUC Commissioners indicating that trips had been taken by Commissioners on business class. Senator Parkinson then read a provision of Public Law No. 36-54, which states that “the Government of Guam shall not purchase first class or business class airfare.” He suggested that the business class airfare paid for by the PUC for an Administrative Law Judge and the Commissioners was in violation of Public Law No. 36-54. The ALJ and the Commissioners stated to Senator Parkinson that they were not aware of the provision he cited.

PUBLIC LAW NO. 36-54 IS INAPPLICABLE TO THE PUC

After the public hearing, the PUC ALJ had the full opportunity to research Public Law No. 36-54. On December 19, 2023, he submitted “Supplemental Testimony” which concluded that Public Law No. 36-54 was inapplicable to the Guam Public Utilities Commission. That law does not prevent the Guam Public Utilities Commission from purchasing business class airfare tickets for Commissioners, Administrative Law Judges, off-island consultants, or employees, or from reimbursing the cost of business fare air tickets. A true and correct copy of the Supplemental Testimony is attached hereto as Exhibit “1”.

The ALJ will not repeat here all the arguments contained in his Testimony, but will present a summary. Public Law No. 36-54 is an Appropriations Act which approves appropriations of General Fund revenues to the Executive, Legislative, and Judicial branches of the Government of Guam for the fiscal year ending September 30, 2022. The PUC never has received, nor does it now receive, any appropriations by the Guam Legislature of revenues from the general fund. No money in that Act, or any other Act,

appropriates funds to the PUC. The PUC is entirely funded by private funds of the telecom companies and revenues obtained by public utilities from ratepayers.

The provision on business class fare appears in Chapter XIII of the Act, at p. 161 of 175 pgs. The prohibition on business class travel appears in a section titled SPENDING CONTROLS ADMINISTRATIVE PROVISIONS. The provisions is only a “spending control” on funds appropriated by the Act. It only prohibits the expenditure of funds appropriated by the Act for business class fare.

For the reasons included in his Testimony, the ALJ concludes that the PUC was fully authorized to reimburse business class airfare to Commissioners and ALJs under its Travel Rules and Regulations. Since 1994, the PUC Travel Rules and Regulations have authorized travel by business class fare.

**NO LAW OF GUAM PROHIBITS THE PUC FROM
AUTHORIZING BUSINESS CLASS TRAVEL**

The Guam Legislature has enacted a “GOVERNMENT TRAVEL LAW (5 GCA CH.23, 23101 et seq). A true and correct copy of the Government Travel Law is attached hereto as Exhibit “2”. The Government Travel Law does not include any restriction or prohibition on business class travel. The PUC Travel Rules and Regulations are consistent with the provisions in the Government Travel Law allowing for “Per Diem Allowance” and itemized statements for reimbursement of actual expenses. It is likely that the PUC Travel Rules and Regulations were originally formed with a view towards implementing provisions of the Government Travel Law.

The Government Travel law does apply “to all Government of Guam employees and board and commission members...” 5 GCA §23104(g). However, 5 GCA §23108, Reporting and Accounting, states as follows: “The Executive, Legislative and Judicial

Branches of the government of Guam shall each have **exclusive jurisdiction and control with regard to persons under their supervision or authority or cognizance authorized to travel at government expense** and in all matters relating to travel of dependents, allowances, **provisions for travel authorization**, indirect travel, advancements (including recovery thereof), reporting and accounting for expenditures, and reimbursements of expenses of such persons.”

The Guam Legislature has held that the PUC is “**independent of the Executive and Legislative Branches.**” Public Law No. 26-18. Travel regulations concerning the Executive or Legislative Branches are not applicable to the PUC. The PUC is entitled to make its own rules and regulations governing travel. Also, the Guam Travel Law provides that each separate branch of the government adopts its own rules and regulations to implement the Government Travel Law. 5 GCA §23109, Rules and Regulations.

IT IS WITHIN THE DISCRETION OF THE PUC TO DECIDE WHETHER BUSINESS CLASS AIRFARE SHOULD BE AUTHORIZED OR NOT; BOTH THE CHAIRMAN AND THE ALJ RECOMMEND THAT THE TRAVEL RULES BE REVISED TO ONLY PROVIDE FOR ECONOMY AIR TRAVEL (WITH ONE EXCEPTION)

The Chairman believes, and the ALJ concurs, that the best course of action for the Commission is to limit reimbursement to Commissioners, ALJs, and Commission staff only for economy air travel. Economy airfare travel now appears to be a standard for the Government of Guam and the Executive, Legislative, and Judicial Branches. There does not appear to be a justification for applying a different standard to the PUC. In the past, the Commission has attempted to follow procedures of the government, such as with procurement, where feasible and when such procedures do not interfere with the

independence of the PUC. Unless the current PUC Rule is changed, there could be a perception among other government officials and the public that the PUC officials and consultants receive special treatment for business class airfare.

Changing the policy will also be a cost-saving measure for the PUC.

Attached hereto as Exhibit "3" are updated and revised Travel Rules, Regulations and Policies of the Guam Public Utilities Commission. The proposed changes would authorize economy travel, instead of business class travel, for Commissioners, on-island consultants and staff. However, for off-island PUC Consultants, business class travel would continue to be approved for all flights greater than five hours. Some of the off-island consultants have already negotiated business class travel in their contracts.

CONCLUSION

The ALJ recommends that the PUC adopt the proposed revisions to the current Travel Rules, Regulations, and Policies as indicated in Exhibit "3".

A Proposed Order is submitted with this Report for the approval of the Commissioners.

Dated this 15th day of January, 2024.

Frederick J. Horecky
Chief Administrative Law Judge

Law Office of Frederick J. Horecky

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FREDERICK J. HORECKY

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December 19, 2023

Senator William A. Parkinson
Chairperson, Committee on Fire, Agriculture,
Power and Energy Utilities, Public Transit,
Unemployment Insurance, and Universal Health Insurance
37th Guam Legislature
Suite 905, DNA Building
238 Archbishop FC Flores St.
Hagåtña, Guam 96910

**Re: Supplemental Testimony of Guam Public Utilities Chief Administrative Law Judge
Frederick J. Horecky in Support of the Reappointment of Joseph M. McDonald, Peter
B. Montinola, and Jeffery C. Johnson as Commissioners of the Guam Public Utilities
Commission**

Dear Chairperson Parkinson:

Thank you for conducting the public hearing on the reappointment of the above Commissioners to the Guam Public Utilities Commission ["PUC"]. I submit this testimony in response to an issue that you raised at the hearing. During the hearing you suggested that the business class air fare paid for by the PUC for Administrative Law Judges and Commissioners for Commission travel was in violation of Public Law 36-54. This Public Law contains a provision which indicates that the Government of Guam may not purchase first class or business class fare, but only authorizes the purchase of coach or economy fare.

When you referenced Public Law 36-54 at the public hearing, neither I nor the Commissioners were aware of its provisions. I have now had the opportunity to review Public Law 36-54:

1. Public Law 36-54 is inapplicable to the Guam Public Utilities Commission. The Law does not prevent the Commission from purchasing business class airfare tickets for Commissioners, Administrative Law Judges, on or off island consultants, or employees, or from reimbursing the cost of business air fare tickets.

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2. The Public Law is “[A]n Act making **Appropriations** for the operations of the Executive, Legislative, and Judicial Branches of the Government of Guam for Fiscal Year ending September 30, 2022.
 3. There is no reference to the Guam Public Utilities Commission in Public Law 36-54. The law does not make any appropriations to the PUC. The PUC does not now receive appropriations from the Guam Legislature, nor has it ever received any appropriation from the Guam Legislature. It does not operate on general fund revenues. The PUC is funded entirely through rate revenues of the utilities and private funds of telecom companies. No operating funds of the PUC are from sources appropriated by the Legislature in Public Law 36-54 or in any other public law.
 4. The only funds to which Public Law 36-54 applies are those appropriated by the Legislature in FY2022. The subject matter of the Act is appropriations made by the Act: Section 1 provides that “This Act shall be known as the “General Appropriations Act of 2022. Except as otherwise provided by this Act, **the appropriations made by this Act** shall be available to pay for Fiscal Year 2022 obligations incurred on or after October 1, 2021 but not later than September 30, 2022. **If any appropriation in this Act** is found contrary to federal law, all other portions of this Act shall remain valid.”
 5. Section 5, relating to business class travel, is set forth in Chapter XIII of the Act, Administrative Provisions, Part I- **SPENDING CONTROLS ADMINISTRATIVE PROVISIONS**. Section 1 of Chapter XIII makes it clear that **the provisions of Chapter XIII, including the prohibition on business class travel in Section 5, only apply to funds appropriated by the Act**. Section 1 of Chapter XIII states: “Government -Funded Travel Prohibited. **Funds appropriated by this Act shall not be expended** for off-island travel or per diem expenses by government employees and officials, except for...” [seven exceptions for which government travel is permitted are listed.]
 6. Chapter XIII states “spending controls” on funds appropriated by the Act. The prohibition in Section 5 on the government of Guam purchases of business class airfare only applies to funds appropriated by the Act. Since no funds are appropriated in the Act to the Guam Public Utilities Commission, the restriction on purchases of business class airfare in Section 5 does not apply to the PUC. The restriction on “government of Guam” purchases of business class airfare only applies to funds appropriated to the government in the Act and expenditures of appropriated funds.
 7. It should also be noted that these administrative provisions in an Appropriation Act have never been enacted into statutory provisions of Guam Law. There is no current statute which precludes the PUC from purchasing business class airfare.
 8. In addition, even were Section 5 applicable to the PUC, the prohibition of Business Class Airfare in Section 5, Chapter XIII, is not applicable to Administrative Law Judges,

Consultants, or Commissioners of the PUC under the doctrine of “**Expressio unius (est) exclusio alterius**.” This Latin phrase means that “the express mention of an item excludes others.” The Supreme Court of Guam has recognized the maxim of statutory construction that “Expressing one item of an associated group or series excludes another left unmentioned.” **People v. Garcia**, 2017 Guam 13 [11].

9. Section 5 states that the government of Guam is authorized to purchase only coach or economy airfare, and further adds: “**Any employee** electing to upgrade their airline seat shall be required to either use their personal mileage or pay the incremental difference in the cost.” Under the Expressio Unius doctrine or rule of statutory construction, the express mention of “employee”, and the omission of reference to any other classes such as consultants or public officials, establishes the legislative intent that the prohibition in Section 5 on business class airfare only applies to “employees.” The PUC has authorized business class airfare for consultants and Commissioners and is not in violation of Section 5.
10. The whole purpose of the travel and fare class restrictions in Public Law 36-54 is to preserve and save funds that are appropriated by the Act. This rationale has no applicability to the PUC as no funds are appropriated to it under the Act. Applying the fare class restriction to PUC would not save any appropriated funds.
11. There have been General Appropriation Acts after Public Law 36-54: Public Law 36-107 for FY2022 and Public Law 37-42 for FY 2023. These subsequent Public Laws contain identical language as in Public Law 36-54 concerning government purchase of business class airfare. For the same reasons as stated herein, none of these subsequent public laws are applicable to the PUC.
12. The PUC has had Travel Rules, Regulations and Policies in effect for nearly thirty years, since 1994. The Rules were updated by the PUC effective May 1, 2019. The Rules authorize business class fare for Commissioners, Staff, and **persons rendering service to the PUC**. Such Rules providing for business fare travel are not in violation of any law or applicable rules of Guam.
13. At the public hearing, a concern was raised by the Chairperson as to whether travel cost had to be “apportioned” when the trip included both official and private business. While travel must be by “a usually traveled and direct route”, **Indirect Travel is authorized**, provided that such travel is not an additional expense to the PUC. Section 11 of the Travel Rules). The PUC has not violated this Rule.
14. PUC has different travel needs than other government entities and must be treated differently regarding travel rules and regulations. The PUC retains off-island contractors through competitive procurements that are nationally recognized experts in utility regulation in the United States. PUC currently retains five such firms, Daymark Energy

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- Advisors, Concentric Energy Advisors, Georgetown Consulting Group Inc, Municipal Solid Waste Consultants, and Aslan Consulting LLC. In rate proceedings involving GPA, GWA, the Port Authority, Guam Solid Waste Authority, and telecommunications companies, these consultants are often required to fly to Guam for participation.
15. In procurement bids, PUC consulting companies have demanded business class travel as a part of their consulting contracts. If the Legislature prevents PUC from providing business class travel to its off-island consultants, such prohibition will impinge upon the ability of PUC to hire its consultants and to adequately undertake and resolve rate proceedings of the utilities. PUC will have difficulty in ensuring that consultants participate in on island rate proceedings.
 16. In accordance with the Organic Act of Guam, the Guam Public Utilities Commission is “an **independent rate making authority**” of the government of Guam. “Independence” means flexibility to determine its own rules and operating procedures.
 17. Any restriction by the Legislature upon PUC’s ability to provide business class airfare to its consultants will violate its independence under the Organic Act of Guam. It is not appropriate for the Legislature to interfere with the Travel Rules of the PUC.
 18. Prior Legislatures have recognized the independence of the PUC. Public Law No. 26-18, enacted on May 31, 2001, stated in Section 1, Legislative Findings and Intent” “*Liheslaturan Guahan* finds that a strong public interest is served by maintaining a strong independent Public Utilities Commission of Guam (“Commission”), which is **independent of the Executive and Legislative Branches**. Federal legislation, which authorized the transfer of the U.S. Navy’s electric power assets to the Guam Power Authority (“GPA”) under the GPA-Navy customer service agreement, was conditioned on Guam’s creation of an **independent public utilities commission**. Moreover, **GPA’s bond indenture agreements require the existence of an independent Commission.**”
 19. For true independence to exist, the Legislature should not undertake to control the Commission’s operations. Under the GPA Bond Covenants, Sections 6.17 and 6.20, the Government of Guam, including **the Guam Legislature, has pledged “to maintain the rights, powers and duties of the...Guam Public Utilities Commission...”** and that it would not “**substantially impair the powers, duties or effectiveness of the Public Utilities Commission thereunder in relation to the Authority or its rates.**”

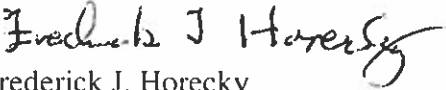
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The Guam Public Utilities Commission has not violated Public Law 36-54 or any other law or rule in providing business class fare to its consultants.

Notwithstanding this Testimony, the Chairman of the Public Utilities Commission Jefferey Johnson has agreed to place the matter of the PUC Travel Rules, Regulations and Policies on the agenda for the PUC meeting for January 25, 2023, for review and consideration.

I request that this Testimony be placed in the record of these proceedings. Thank you for your consideration of this testimony.

Sincerely,


Frederick J. Horecky
PUC Chief Administrative Law Judge

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CHAPTER 23
GOVERNMENT TRAVEL LAW

- § 23101. Definitions.
- § 23102. Short Title.
- § 23103. Persons Authorized to Travel at Government Expense.
- § 23104. Per Diem Allowance.
- § 23105. Mileage Allowance.
- § 23106. Indirect Travel: Dependents.
- § 23107. Advancements. [Repealed]
- § 23108. Reporting and Accounting.
- § 23109. Rules and Regulations.
- § 23110. Limitation on Use of Travel Funds. [Repealed]
- § 23111. The Senator Edward J. Cruz Medical Referral Mileage Bank Account Act.
- § 23112. Non-Employee Travel Justification Reports to Be Posted.

§ 23101. Definitions.

As used in this Chapter:

(a) Employee means an officer or employee of the Government, including the Governor, Lieutenant Governor, members and attaches of the Legislature and Judges.

(b) Per Diem Allowance means a daily flat rate of payment in lieu of actual lodging and meal expenses.

(c) Travel expenses means necessary expenses incidental to official government travel, excluding expenses for lodging and meals.

SOURCE: GC § 6610.1 repealed/reenacted by P.L. 15-58:1.

§ 23102. Short Title.

This Chapter may be cited as the *Government Travel Law*.

SOURCE: GC § 6610.2

§ 23103. Persons Authorized to Travel at Government Expense.

The following are authorized to travel at government expense while on official business:

- (a) Employees;

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(b) Dependents of employees while traveling incident to recruitment, termination, or home leave;

(c) The spouse of the Governor, of the Speaker of the Legislature, and the Chief Justice of the Supreme Court, and spouses of such other employees as may be provided by regulation; and

(d) Persons rendering service to the government.

SOURCE: GC § 6610.3.

2015 NOTE: Subsection (c) previously contained a reference to "Chief Judge of the Island Court," which was changed to "Presiding Judge of the Superior Court of Guam" in accordance with P.L. 12-085 (Jan. 16, 1974). This reference was changed to "Chief Justice of the Supreme Court of Guam" pursuant to an amendment to § 22A(b)(2) of the Organic Act of Guam by Pub. L. 108-378:1(b) (Oct. 30, 2004). See 48 U.S.C. § 1424-1(b)(2).

§ 23104. Per Diem Allowance.

(a) Prior to departure, the employee shall receive an advance per diem allowance equal to the number of days of authorized office travel multiplied by the current per diem allowance rate provided by the Federal government, contained in the Joint Travel Regulations, to its employees for the respective travel destinations when engaged in official business.

(1) If the employee is the Governor, Lieutenant Governor, a member of the Legislature, a Judge, or a Mayor or Vice-Mayor, the rates are One Hundred Thirty Percent (130%) of the basic per diem rates;

(2) If the employee is an Executive Assistant or Special assistant to the Governor, director or deputy director of any department, or member of the board of directors or commission of any autonomous agency, authority, line agency (including the Council of the Arts and Humanities), authority, or public corporation, the rates are One Hundred and Twenty-five Percent (125%) of the basic per diem rates.

(b) Annually in March, the Governor for the Executive Branch and all autonomous agencies and public corporations, the Chief Justice of the Supreme Court for the Judicial Branch and the Committee on Rules for the Legislative Branch shall establish a policy with regard to advance

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payment for travel expenses. An employee may receive an advance allowance for travel expenses.

(c) Within ten days following the return from official travel, an employee may submit an itemized statement of account supported by receipts, an affidavit, or both, of actual expenses incurred for lodging, meals and travel expenses actually incurred on official business during the period of official travel. If the advances of the per diem allowance and travel expenses allowance are less than the employee's actual authorized expenses then he shall be reimbursed for the amount his actual expenses exceeded the advance allowances.

(d) If the employee does not submit a statement of account, then he shall submit an itinerary of his official travel within ten days of his return. If the employee does not submit a statement of account, then he shall not be paid any money in excess of the advance per diem allowances and travel expense allowance. If the employee received an excessive advance allowance, he shall reimburse the Government the excessive amount at the time he submits an itinerary.

(e) The Governor, the Lieutenant Governor, Senators and Judges may be reimbursed for expenses incurred in hosting appropriate persons while conducting official business for the government of Guam. When seeking reimbursement under this subsection, the official shall submit an itemized statement of account of the actual expenses incurred and a brief statement of the purpose for the meeting.

(f) The Director of Administration shall annually in March, in accordance with the Administrative Adjudication Law, establish a schedule of allowances for expenses of employees sent off-island for training for more than 30 days. The provisions of subsections (a) through (e) of this Section shall not apply to an employee who is off-island receiving training for more than 30 days. Such an employee shall receive prior to departure the allowance for his expenses according to the schedule established by the Director of Administration. No report of actual expenses shall be required of a person who spends more than 30 days off-island receiving training. Such an employee shall not be entitled to reimbursement for actual expenses incurred even if they are greater than his allowance.

(g) The provisions of this Chapter shall apply to all government of Guam employees and board and commission members including, but not

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limited to those of the executive, legislative and judicial branches, autonomous agencies, authorities, and public corporations including, but not limited to the Guam Economic Development Authority, Guam Election Commission, Government House, Public Defender Corporation, Guam Visitors Bureau, University of Guam, Public Utility Agency of Guam, Guam Telephone Authority, Guam Housing and Urban Renewal Authority, Guam Memorial Hospital Authority, Port Authority of Guam, Guam Housing Corporation, Guam Airport Authority, Guam Power Authority, and dependents or spouses authorized to accompany the employee on official travel.

SOURCE: GC § 6610.4 amended by P.L. 10-6, 11-73, 11-194; repealed/ reenacted by P.L. 15-58:2. Subsection (a) amended by P.L. 15-125:14; amended by P.L. 20-214:2; repealed and reenacted by P.L. 20-224:12 (12/24/90); amended by P.L. 28-068:IV:114 (Sept. 30, 2005). Subsection (f) amended effective January 1, 2006 to replace "Civil Service Commission" with "Director of Administration" pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005). Subsection (a)(1) amended by P.L. 30-101:24 (Mar. 12, 2010).

2015 NOTE: Pursuant to an amendment to § 22A(b)(2) of the Organic Act of Guam by Pub. L. 108-378:1(b) (Oct. 30, 2004), references to "Presiding Judge" have been changed to "Chief Justice of the Supreme Court of Guam." See 48 U.S.C. § 1424-1(b)(2).

§ 23105. Mileage Allowance.

Persons authorized to travel at government expense shall, in accordance with regulations and whenever such mode of transportation is authorized or approved as more advantageous to the government, be paid in lieu of transportation a maximum personal vehicle mileage allowance rate equal to the mileage reimbursement rate provided by the Federal government, contained in the Federal Travel Regulations, to its employees for the use of personal vehicles when engaged on official business.

SOURCE: GC § 6610.5. Amended by P.L. 14-119, P.L. 15-87. Repealed and reenacted by P.L. 21-14:19(b). Amended by P.L. 28-068:IV:113 (Sept. 30, 2005).

§ 23106. Indirect Travel & Dependents.

Indirect travel, and travel for dependents when accompanying employees on official business other than travel provided under § 23103(b) of this Chapter may be authorized in accordance with regulations, provided that any such travel is not at any additional expense to the government.

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SOURCE: GC § 6610.6.

§ 23107. Advancements.

[Repealed.]

SOURCE: Repealed by P.L. 15-58:3.

§ 23108. Reporting and Accounting.

The Executive, Legislative and Judicial Branches of the government of Guam shall each have exclusive jurisdiction and control with regard to persons under their supervision or authority or cognizance authorized to travel at government expense and in all matters relating to travel of dependents, allowances, provisions for travel authorization, indirect travel, advancements (including recovery thereof), reporting and accounting for expenditures, and reimbursements of expenses of such persons. The members of the Legislature shall account to the Committee on Rules of the Legislature as to their expenditure of travel funds authorized by this Chapter in accordance with legislative rules and regulations.

SOURCE: GC § 6610.8.

§ 23109. Rules and Regulations.

This Chapter may be implemented by rules and regulations to be issued by the Governor with regard to the Executive Branch, by rules or resolutions with regard to the Legislature, and by rules of the Judicial Council with regard to the Judicial Branch.

SOURCE: GC § 6610.9.

§ 23110. Limitation on Use of Travel Funds.

[Repealed.]

SOURCE: Repealed by P.L. 21-42 Chapter V:16.

§ 23111. The Senator Edward J. Cruz Medical Referral and Education Mileage Program.

(a) Title. This Section may be cited and referred to as the “Senator Edward J. Cruz Medical Referral and Education Mileage Program.”

(b) Medical Referral and Education Mileage Program. There is hereby created within the government of Guam and accrued travel mileage program for the use of travel mileage earned as a result of all

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purchases made by the government of Guam through the use of government of Guam credit card purchases. This program shall be known as the Senator Edward J. Cruz Medical Referral and Education Mileage Program (MREMP) to be administered by the Department of Administration for all travel conducted by employees of the Executive Branch of the government of Guam. The Guam Legislature, the Unified Judiciary of Guam, and other agencies, instrumentalities, autonomous agencies, and public corporations of the government of Guam that purchase airline tickets through the use of credit cards, shall administer their respective accrued travel mileage programs pursuant to the requirements of this Section.

(c) Definitions. For the purposes of this Section the following words and phrases are defined to mean:

(1) Account means the Senator Edward J. Cruz Medical Referral and Education Mileage Program established under this Section.

(2) Accrued mileage means those miles accrued by the government of Guam, specifically the Department of Administration, the Guam Legislature, the Unified Judiciary of Guam, and other agencies, instrumentalities, autonomous agencies, and public corporations of the government of Guam that use credit cards to purchase airline tickets.

(3) Employee means all persons employed within the government of Guam, whether classified, unclassified, full-time, part-time, temporary, or on a limited-term basis; all elected officials, judges, mayors, individual consultants, and members of boards and commissions.

(4) Travel benefit means a program designed by an airline that awards accrued mileage and benefit programs to its clients.

(d) Requirement. All accrued mileage earned through the use of credit cards for travel by employees of the legislative, judicial and executive branches, including, but not limited to, all government agencies, instrumentalities, autonomous and semi-autonomous agencies, public corporations, the University of Guam, the Guam Community College, the Guam Visitors Bureau, the Department of Education, all elected officials, individual consultants of the government of Guam, and

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members of boards and commissions, as well as non-government persons traveling at government of Guam or federal government expense, shall be available to support off-island medical care, and off-island student travel involving academic, sports and cultural activities.

The following agencies, instrumentalities, and autonomous agencies of the government of Guam shall use their respective accrued mileage account to support off-island medical referrals and off-island student travel based on the following distribution guideline:

(1) Department of Administration - fifty percent (50%) of the accrued mileage maintained by this entity shall be used to send eligible students to participate at off-island academic activities, including, but not limited to, Close-Up and the Junior Statesmen of America. The remaining fifty percent (50%) shall be used to support off-island medical referrals pursuant to Subsection (f).

(2) Department of Education, Guam Community College, University of Guam – one hundred percent (100%) of the accrued mileage maintained by these entities shall be used to send eligible students to participate at off-island academic activities, including, but not limited to, Close-Up and the Junior Statesmen of America.

(3) Guam Power Authority, Guam Waterworks Authority – one hundred percent (100%) of the accrued mileage account maintained by these entities shall be used to send eligible students to participate at off-island sports competitions.

(4) Antonio B. Won Pat Guam International Airport Authority, Guam Visitors Bureau, Jose D. Leon Guerrero Port Authority of Guam – one hundred percent (100%) of the accrued mileage maintained by this entity shall be used to send eligible students to participate at off-island cultural activities, including, but not limited to, arts and humanities competitions and international cultural festivals and exchanges.

(5) Guam Legislature, Unified Judiciary of Guam – one hundred percent (100%) of the accrued mileage maintained by these entities shall be used to send eligible students to participate at off-island academic activities, including, but not limited to, Mock Trial and National Forensic League competitions.

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(6) All agencies, instrumentalities, autonomous agencies, and public corporations of the government of Guam not mentioned in items (1) through (4) of this Subsection shall use their accrued mileage to send eligible students to participate at off-island academic, sports and cultural activities, as authorized by the Superintendent of Education.

(e) Eligibility.

(1) The following persons are eligible for participation to receive the mileage for off-island medical care:

(A) patients under the Medically Indigent Program; patients under other DPHSS income-based health programs as approved by the Director of the Department of Public Health and Social Services; and patients with serious medical illness and financial need as determined by the Director of DPHSS pursuant to the Administrative Adjudication Law.

(B) all health care staff (physicians, nurses, technicians) providing direct care to the patient being transported, as approved by the Medical Director of the Guam Memorial Hospital Authority, or his/her designee.

(2) Patient eligibility shall be based upon:

(A) financial need as identified under the requirements of the Medically Indigent Program, or under the requirements of other DPHSS income-based health programs, or by any other needs based requirements for patients with any medical illness as prescribed by the Director of the Department of Public Health and Social Services pursuant to the Administrative Adjudication Law process;

(B) lack of availability of required medical services on Guam; and

(C) urgency and severity of illness, as documented by an attending physician.

(3) A GDOE student who is authorized by a committee established by the Superintendent of Education to participate at an off-island academic, sports or cultural activity is also eligible for participation to receive the mileage benefits.

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(f) **Authorized Use.** Fifty percent (50%) of the accrued mileage account, administered by the Department of Administration, shall be used to send patients off-island, through a certified medical referral for patients, to a destination determined by the patient's duly licensed physician with the concurrence of the Medically Indigent Program Coordinator of the Department of Public Health and Social Services.

(g) **Other Travel Benefits.** All other travel benefits, including, but not limited to, volume purchase discounts and accrued number of ticket purchases for free flight benefits and promotional travel benefits shall be accrued and used for the purpose of this Program. The Director of Administration shall establish procedures for management of these benefits and for distribution as requested by the Medically Indigent Program Coordinator of the Department of Public Health and Social Services, or his/her designee.

(h) **Credit Card Agreement; Accrued Mileage Program.** The Guam Legislature, the Unified Judiciary of Guam, and departments, agencies, instrumentalities, autonomous agencies, and public corporations of the government of Guam shall exercise due diligence and seek to enter into an agreement with a bank(s) on Guam for a credit card(s) to use as payment for travel for employees traveling on government and/or federally funded travel, and to accrue travel mileage through a participating airline(s), which shall be used in accordance with the provisions of this Act. Each department, instrumentality, autonomous agency, and public corporation of the government of Guam shall maintain their respective accrued mileage program, which shall be used exclusively to support off-island medical referrals and off-island student travel involving academic, sports and cultural activities, pursuant to the distribution guidelines set forth in items (1) through (6) of Subsection (d). The Department of Administration shall be responsible for maintaining an accrued mileage account for all travel under its purview.

(i) **Rules and Regulations.** The Director of the Department of Public Health and Social Services in collaboration with the Director of the Department of Administration shall jointly promulgate rules and regulations, specifically for the use of accrued mileage for off-island medical referrals, within sixty (60) days from the date of enactment of this Section. The Superintendent of Education shall in collaboration with the heads of all agencies, departments, instrumentalities, autonomous agencies, and public corporations of the government of Guam, to include

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the Executive Director of the Guam Legislature and the Administrator of the Courts, shall promulgate rules and regulations, specifically for the use of accrued mileage for off-island student travel involving academic, sports and cultural activities. These rules and regulations shall be promulgated pursuant to Article 3, Chapter 9 of Title 5, Guam Code Annotated, the Administrative Adjudication Act, Rule Making Procedures.

(j) Transfer fee or other related fees and taxes. In the event a transfer fee or other related fees and taxes is required to secure off-island travel, as authorized herein, such fee(s) shall be borne by the traveler.

SOURCE: Added by P.L. 24-276:2. Repealed and reenacted by P.L. 31-117:2 (Sept. 30, 2011), effective, October 1, 2011, pursuant to subsection (n). Amended by P.L. 32-019:1 (Apr. 11 2013), effective no later than 90 days following enactment (July 10, 2013) pursuant to P.L. 32-019:3. Subsection (b) and (e)(3) amended by P.L. 33-025 (May 7, 2015).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

§ 23112. Non-Employee Travel Justification Reports To Be Posted.

In the event that an agency expends funds for travel for a person who is a non-employee of such agency, such as a board or commission member, or a consultant, and is not exempt, the agency head shall prepare and publish on the agency's website, a "justification statement". The justification statement shall include the reason(s) why a person, other than an agency employee, was required to travel at the agency's expense. For the purposes of this Section, non-employee means any person who is not listed on the staffing pattern of the agency at the time travel commenced. All reports required to be posted pursuant to this Section shall be posted within thirty (30) days following the return of the traveler.

SOURCE: Added by P.L. 31-114:1 (Sept. 30, 2011).

2011 NOTE: P.L. 31-114:2, provides:

"Section 2. Effective Date. The effective date of this Act *shall* be upon enactment, *except* that for travel commencing on or after October 1, 2010, and the effective date of this Act, agencies *shall* post non-employee travel justification reports *no later than* ninety (90) days of enactment hereof."

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TRAVEL RULES, REGULATIONS AND POLICIES
OF
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(As updated effective January 25, 2024)

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Public Utilities Commission of Guam

Off-Island Travel Rules and Regulations

Section 1. General. All persons traveling off-island for the PUC shall exercise the same care in incurring expenses that a prudent person would if traveling on personal business. It is the policy of the PUC that all off-island travel must be performed either for the direct benefit or to fulfill a real and legitimate obligation of the PUC.

Section 2. Purpose and Scope. The purpose of these Rules is to provide standard travel rules, regulations and policies governing off-island travel of Commissioners, Commission staff, (including Administrative Law Judges, Legal Counsel, Administrator, and off-island consultants) and persons rendering service to the PUC except where contracts with such persons provide otherwise. All other rules, regulations and policies hereto adopted relating to this subject are hereby superseded by these rules and regulations.

Section 3. Definitions.

- (1) "PUC" means the Public Utilities Commission of Guam.
- (2) "Commissioner" means the PUC Commissioners.
- (3) "Per Diem Allowance" means the daily flat rate of payment in lieu of actual lodging and meal expenses.
- (4) "Travel Expenses" means necessary expenses incidental to PUC-related travel, excluding expenses for lodging and meals.
- (5) "Traveler" shall mean a Commissioner, Administrative Law Judge, Legal Counsel, Administrator, off island consultant, or other person who is traveling off-island on official business for the PUC.
- (6) "Off-Island Travel" shall include travel outside of Guam, or to and from Guam, by independent contractors who are employed by the PUC.

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- (1) Commissioners and staff of the PUC (including Administrative Law Judge, Legal Counsel, Administrator, and off-island Consultant).
- (2) Persons rendering service to the PUC.

Section 5. Travel Authorization Procedure.

- (1) A Travel Request and Authorization ("TRA"), in the form attached hereto as Exhibit A, shall be completed by the traveler in advance of proposed off-island travel setting forth the following:
 - (a) Purpose of travel;
 - (b) Where - city, state;
 - (c) Dates and number of official travel days requested;
 - (d) Who in party;
 - (e) Air fare cost;
 - (f) Advance per diem allowance requested;
 - (g) Deposits and/or registration fees required;
 - (h) Any other useful information;
- (2) TRA's for proposed off-island travel by any Traveler shall be submitted for approval in advance of the proposed travel to the Chairman, whose prior approval is required. For proposed travel by the Chairman, advance approval by the Vice Chairperson shall be required.

Section 6. Off-island Travel for Conferences or Educational Purposes. Commissioners, Administrative Law Judges, Legal Counsel, and Administrator may take occasional off-island trips for educational purposes or attendance at conferences related to matters and utilities under the regulation of the PUC. Each such person shall take no more than two off-island trips per year each, at PUC expense, for purposes of attending conferences, educational programs, or utility meetings. If other travel is necessary and critical for the business of the PUC, such travel must be approved in advance by both the Chairman and the Vice-Chairperson.

Section 7. Advance Per Diem Allowance. To the extent possible, all travelers should submit requests for reimbursement for actual lodging, meals and travel expenses after travel for education, conferences, or other purposes has been completed, in accordance with the requirements of Section 8 of these Rules. However, should a traveler require advance funds for travel, or otherwise desire to obtain advance per diem, prior to departure, the traveler shall receive an advance per diem allowance equal to the number of authorized official travel days multiplied by the following per diem rates:

- (1) Per diem rate for Hawaii, cities in mainland United States, and Asia: \$300 per day.

- (2) Per diem rate for all areas of Micronesia and the Commonwealth of the Northern Mariana Islands: \$200.00
- (3) Per diem rate for any other areas shall be determined in advance by the Administrator and the Chairman.

Section 8. Reimbursement for Actual Lodging, Meal and Travel Expenses; Statement of Account; Itinerary.

- (1) Within ten (10) days following the return from official travel, a traveler may submit an itemized statement of account supported by receipts, an affidavit, or both, of actual lodging, meal and travel expenses incurred on official business during the period of official travel. If the total per diem allowance advanced was less than the traveler's total actual lodging, meal and travel expenses, then the traveler shall be reimbursed for the amount the traveler's total actual lodging, meal and travel expenses exceeded the traveler's advance per diem allowance. If the traveler does not submit a statement of account within ten (10) days following the return from official travel, the traveler shall not be paid any money in excess of the traveler's advance per diem allowance. The statement of account shall be subject to audit review and possible disallowance for personal items or unreasonable expenses by the Chairman. No Commissioner shall review his/her own statement of account.

Note: Receipts should be obtained for most expenses. As a practical matter, meals including tips can be charged to hotel room which assists in record keeping of both large and small expenses incurred in the hotel. Receipts for incidental taxi and tips are not required but taxi drivers and airport limo drivers are prepared to issue receipts. Attaching paid receipts to a statement of account is evidence of the nature and amount of actual expenses, but does not, of its own, make such expenses proper PUC travel expenses.

- (2) If the traveler does not submit a statement of account, then he or she shall submit an itinerary of his or her official travel within ten (10) days of his or her return from official travel. If it is determined from the traveler's itinerary that the traveler received an excessive advance per diem allowance, then the traveler shall reimburse the PUC the excessive amount at the time the traveler submits his or her itinerary.

Section 9. Authorized Official Travel Days. The number of days that shall be authorized for official travel shall be the total number of days required to travel by air via the most direct route to and from the point or points specified in the travel authorization,

including any reasonable lay-over days at transfer points, plus the number of days necessary to transact the required official business. Every effort should be made to reserve complete flight schedules well in advance to avoid lengthy delays or lay-overs at transfer points.

Section 10. Type of Air Travel Authorized; Purchase of Airline Tickets. Travel for all authorized persons, except for off-island PUC consultants, shall be at economy class fare/business class for all flights. For off-island PUC consultants, travel shall be business class for all flights lasting in excess of five hours from the point of embarkation to the business destination. All flights less than five hours shall be ~~no higher than economy/Economy-Plus or similar class.~~ If possible, travelers should purchase Airline tickets in advance of their travels with personal funds, in which case such personal expenditure shall be deemed an authorized travel expense for reimbursement purposes. In the alternative, the Commission will reimburse the Traveler in advance of the traveler's departure date upon presentation of an e-ticket summary for any approved travel.

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Section 12. Indirect Travel. Indirect travel is authorized, provided that such travel is not an additional expense to the PUC.

Section 13. Travel Groups. When two or more travelers travel together on the same mission, each should incur, pay for and report his or her own expenses, and neither should pay for any part of the other traveler's expenses (meals, hotel, etc.) even though it is charged to a hotel bill, or credit card.

Section 14. Travel Report. Within sixty (60) days of return from official travel, the traveler shall submit to the PUC a written report concerning the meeting, seminar or course attended. If more than one (1) traveler attends such meeting, seminar or course, only one (1) report shall be submitted signed by each traveler.

public perception that the PUC, its Commissioners, or on-island Consultants receive preferential treatment.

Upon the review of the ALJ Report and the recommendation of the PUC Chairman Jeffrey C. Johnson, for good cause shown, and upon motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. The revised Travel Rules, Regulations and Policies, attached hereto as Exhibit "1", are approved.
2. Henceforth, the revised Travel Rules, Regulations, and Policies will be the approved rules for all travel authorized by the Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Order
PUC Travel Rules
and Regulations
January 25, 2024

Dated this 25th day of January, 2024.

Jeffrey C. Johnson
Chairman

Rowena E. Perez-Camacho
Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner

Pedro S.N. Guerrero
Commissioner

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Commissioners, Administrative Law Judges, Legal Counsel, and Administrator may take occasional off-island trips for educational purposes or attendance at conferences related to matters and utilities under the regulation of the PUC. Each such person shall take no more than two off-island trips per year each, at PUC expense, for purposes of attending conferences, educational programs, or utility meetings. If other travel is necessary and critical for the business of the PUC, such travel must be approved in advance by both the Chairman and the Vice-Chairperson.

Section 7. Advance Per Diem Allowance. To the extent possible, all travelers should submit requests for reimbursement for actual lodging, meals and travel expenses after travel for education, conferences, or other purposes has been completed, in accordance with the requirements of Section 8 of these Rules. However, should a traveler require advance funds for travel, or otherwise desire to obtain advance per diem, prior to departure, the traveler shall receive an advance per diem allowance equal to the number of authorized official travel days multiplied by the following per diem rates:

- (1) Per diem rate for Hawaii, cities in mainland United States, and Asia: \$300 per day.

- (2) Per diem rate for all areas of Micronesia and the Commonwealth of the Northern Mariana Islands: \$200.00
- (3) Per diem rate for any other areas shall be determined in advance by the Administrator and the Chairman.

Section 8. Reimbursement for Actual Lodging, Meal and Travel Expenses; Statement of Account; Itinerary.

- (1) Within ten (10) days following the return from official travel, a traveler may submit an itemized statement of account supported by receipts, an affidavit, or both, of actual lodging, meal and travel expenses incurred on official business during the period of official travel. If the total per diem allowance advanced was less than the traveler's total actual lodging, meal and travel expenses, then the traveler shall be reimbursed for the amount the traveler's total actual lodging, meal and travel expenses exceeded the traveler's advance per diem allowance. If the traveler does not submit a statement of account within ten (10) days following the return from official travel, the traveler shall not be paid any money in excess of the traveler's advance per diem allowance. The statement of account shall be subject to audit review and possible disallowance for personal items or unreasonable expenses by the Chairman. No Commissioner shall review his/her own statement of account.

Note: Receipts should be obtained for most expenses. As a practical matter, meals including tips can be charged to hotel room which assists in record keeping of both large and small expenses incurred in the hotel. Receipts for incidental taxi and tips are not required but taxi drivers and airport limo drivers are prepared to issue receipts. Attaching paid receipts to a statement of account is evidence of the nature and amount of actual expenses, but does not, of its own, make such expenses proper PUC travel expenses.

- (2) If the traveler does not submit a statement of account, then he or she shall submit an itinerary of his or her official travel within ten (10) days of his or her return from official travel. If it is determined from the traveler's itinerary that the traveler received an excessive advance per diem allowance, then the traveler shall reimburse the PUC the excessive amount at the time the traveler submits his or her itinerary.

Section 9. Authorized Official Travel Days. The number of days that shall be authorized for official travel shall be the total number of days required to travel by air via the most direct route to and from the point or points specified in the travel authorization,

including any reasonable lay-over days at transfer points, plus the number of days necessary to transact the required official business. Every effort should be made to reserve complete flight schedules well in advance to avoid lengthy delays or lay-overs at transfer points.

Section 10. Type of Air Travel Authorized; Purchase of Airline Tickets. Travel for all authorized persons, except for off-island PUC consultants, shall be at economy class fare for all flights. For off-island PUC consultants, travel shall be business class for all flights lasting in excess of five hours from the point of embarkation to the business destination. All flights less than five hours shall be economy. If possible, travelers should purchase Airline tickets in advance of their travels with personal funds, in which case such personal expenditure shall be deemed an authorized travel expense for reimbursement purposes. In the alternative, the Commission will reimburse the Traveler in advance of the traveler's departure date upon presentation of an e-ticket summary for any approved travel.

Section 11. Routing of Travel. All travel must be via a usually traveled and direct route. Travel tickets shall be for complete routes, inclusive of stop-over privileges whenever or wherever practicable, to minimize the cost of special or short run trips, stop-overs, or backtracking.

Section 12. Indirect Travel. Indirect travel is authorized, provided that such travel is not an additional expense to the PUC.

Section 13. Travel Groups. When two or more travelers travel together on the same mission, each should incur, pay for and report his or her own expenses, and neither should pay for any part of the other traveler's expenses (meals, hotel, etc.) even though it is charged to a hotel bill, or credit card.

Section 14. Travel Report. Within sixty (60) days of return from official travel, the traveler shall submit to the PUC a written report concerning the meeting, seminar or course attended. If more than one (1) traveler attends such meeting, seminar or course, only one (1) report shall be submitted signed by each traveler.