

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

October 4, 2011

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

31-11-931  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 10/4/11  
Time 4:00 PM  
Received by [Signature]

Dear Madame Speaker:

Transmitted herewith is Bill No. 114-31 (COR) "AN ACT TO ADD NEW §§ 54106, 54107 AND 54108 TO ARTICLE 1 OF CHAPTER 54, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS; AND TO AMEND §§ 53101, 53103 AND 53104, AND ADD NEW §§53102(a)(5) AND 53109 ALL OF CHAPTER 53 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DEFINING UTILITIES AS *PERMITTED ENCROACHMENTS*", which was signed into law on September 30, 2011 as **Public Law 31-85**.

Senseramente,  
  
EDDIE BAZA CALVO

2011 OCT -5 AM 8:07  
[Signature]

Attachment: copy of Bill

931

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2011 (FIRST) Regular Session

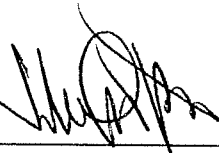
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 114-31 (COR), "AN ACT TO ADD NEW §§ 54106, 54107 AND 54108 TO ARTICLE 1 OF CHAPTER 54, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS; AND TO AMEND §§ 53101, 53103 AND 53104, AND ADD A NEW §53109 ALL OF CHAPTER 53 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DEFINING UTILITIES AS PERMITTED ENCROACHMENTS," was on the 19<sup>th</sup> day of September, 2011, duly and regularly passed.



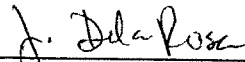
Judith T. Won Pat, Ed.D.  
Speaker

Attested:



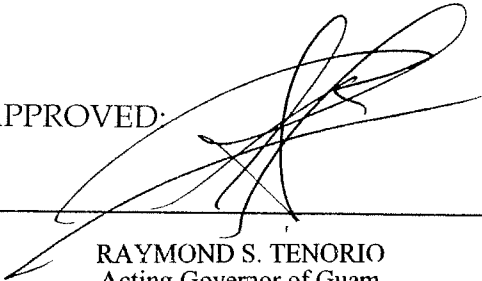
Tina Rose Muña Barnes  
Legislative Secretary

-----  
This Act was received by I Maga'lahaen Guåhan this 20<sup>th</sup> day of Sept., 2011, at  
4:10 o'clock P.M.



Assistant Staff Officer  
Maga'laha's Office

APPROVED:



RAYMOND S. TENORIO  
Acting Governor of Guam

Date:

**SEP 30 2011**

Public Law No. 31-85

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
**2011 (FIRST) Regular Session**

**Bill No. 114-31 (COR)**

As amended by the Committee on Utilities, Transportation,  
Public Works and Veterans Affairs, and further amended on the Floor.

Introduced by:

V. Anthony Ada  
Chris M. Dueñas  
F. F. Blas, Jr.  
T. C. Ada  
B. J.F. Cruz  
Judith P. Guthertz, DPA  
Sam Mabini, Ph.D.  
T. R. Muña Barnes  
Adolpho B. Palacios, Sr.  
v. c. pangelinan  
Dennis G. Rodriguez, Jr.  
R. J. Respicio  
M. Silva Taijeron  
Aline A. Yamashita, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* NEW §§ 54106, 54107 AND 54108 TO ARTICLE 1 OF CHAPTER 54, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS; AND TO *AMEND* §§ 53101, 53103 AND 53104, AND *ADD* NEW §§53102(a)(5) AND 53109 ALL OF CHAPTER 53 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DEFINING UTILITIES AS *PERMITTED ENCROACHMENTS*.**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1.** A new §54106 is *added* to Article 1, Chapter 54 of Title 5,  
3 Guam Code Annotated, to read as follows:

4           “§ 54106.   **Federally Funded Highway Projects - Mitigation**  
5           **Expenses.** To the extent that business/residential/traffic mitigation costs are  
6 authorized or allowed by the grantor of federal funds for highway/road  
7 projects, the Department of Public Works *shall* allocate a sufficient portion  
8 of such federal funds for mitigation expenses related to such highway/road  
9 projects.”

10          **Section 2.** A new §54107 is *added* to Article 1, Chapter 54 of Title 5,  
11 Guam Code Annotated, to read as follows:

12          “§ 54107.   **Federally Funded Highway Projects – Utilities**  
13          **Relocation Expenses.** To the extent that utilities relocation costs are  
14 authorized or allowed by the grantor of federal funds for highway/road  
15 projects, the Department of Public Works *shall* allocate a sufficient portion  
16 of such federal funds for utilities relocation expenses related to such  
17 highway/road projects.”

18          **Section 3.** A new §54108 is hereby *added* to Article 1, Chapter 54 of  
19 Title 5, Guam Code Annotated, to read as follows:

20          “§ 54108.   The Department of Public Works *shall* submit a report  
21 to the Speaker of *I Liheslatura, I Maga'lahi*, the Office of Public  
22 Accountability, the Office of Finance and Budget, and the Public Utilities  
23 Commission of all utility relocation costs that are authorized or allowed by  
24 the grantor of federal funds and allocated by DPW for mitigation and  
25 relocation expenses related to highway/road projects.”

26          **Section 4.** §53101 of Chapter 53 of Title 5, Guam Code Annotated, is  
27 hereby *amended* to read as follows:

1                   “§ 53101.   **Definitions.**

2                   As used in this Chapter

3                   (a)    *Department* means the Department of Public Works.

4                   (b)    *Director* means the Director of Public Works.

5                   (c)    *Highway* means all or any part of the entire width of right  
6 of way, whether or not such entire area is actually used for highway  
7 purposes.

8                   (d)    *Encroachment* means any tower, pole, poleline, pipe,  
9 pipeline, fence, billboard, stand or building, or any structure or utility  
10 infrastructure *not* particularly mentioned, which is placed in, under or  
11 over any portion of a highway.

12                  (e)    *Betterment* means any upgrade to permitted  
13 encroachments or permitted temporary encroachments that is *not*  
14 attributable to a highway construction project, ~~and~~ *or* is made solely  
15 for the benefit of and at the election of the utility. Betterment  
16 includes, but is *not* limited to, relocation of aerial facilities  
17 underground.

18                  (f)    *Permitted encroachment* means the assets or  
19 infrastructure of a utility permitted by the Department of Public  
20 Works to use public right-of-way. This definition *does not* apply to  
21 sign permits. *Permittees*, for purposes of this Chapter, are the owners  
22 or lessors of a permitted encroachment.

23                  (g)    *Permitted temporary encroachment* means any sign,  
24 advertisement or other temporary structure that is permitted by the  
25 Department of Public Works to be posted on government of Guam  
26 rights-of-way. *Temporary Permittees*, for purposes of this Chapter,  
27 are the owners or lessors of a permitted temporary encroachment.

1 (h) *Utility* means the Guam Power Authority, the Guam  
2 Waterworks Authority or their legal successors, and public or legally  
3 licensed purveyors of telecommunication services.”

4 **Section 5.** A new §53102(a)(5) is hereby *added* to Chapter 53 of Title 5,  
5 Guam Code Annotated, to read as follows:

6 “(5) Place in, under or over any highway, and perform routine  
7 maintenance and emergency repairs on utility equipment and facilities.”

8 **Section 6.** §53103 of Chapter 53 of Title 5, Guam Code Annotated, is  
9 hereby *amended* to read as follows:

10 **“§ 53103. Permit Terms.**

11 Any permit issued under the provisions of this Chapter *shall* provide  
12 that the permittee will pay the entire expense of restoring the highway to the  
13 department standard for repairs made to a permitted encroachment, and may  
14 provide such other conditions as to the location and the manner in which the  
15 work is to be done as the Department finds reasonably necessary for the  
16 protection of the highways. All permits *shall* provide that they are revocable,  
17 for cause, upon thirty (30) days’ written notice by the Department. Cause  
18 for revocation is the presence of any asset of any permittee that is adversely  
19 affecting the use, repair, improvement or access to the highway or as  
20 specified in §53107 (b)(c)(d) of this Chapter.

21 All costs of betterments *shall* be paid by the owner of such  
22 infrastructure.

23 The Department *shall* coordinate with all affected utilities when  
24 planning highway construction, and *shall* include the costs of any utility  
25 relocations when requesting federal funds in connection with such  
26 construction.”

1           **Section 7.** §53104 of Chapter 53 of Title 5, Guam Code Annotated, is  
2 hereby *amended* to read as follows:

3                   **“§ 53104. Cost of Work Supervision.**

4           The Department may, but is *not* required to, supervise any work done  
5 under any permit issued under the provisions of this Chapter, in which event,  
6 the permittee *shall* pay the reasonable cost of such supervision to the  
7 Department, *except* to the extent that there are federal funds available or  
8 accessible for such purposes.”

9           **Section 8.** A new §53109 is hereby *added* to Chapter 53 of Title 5, Guam  
10 Code Annotated, to read as follows:

11                   **“§ 53109. Relocation of Permitted Encroachments for Federally**  
12 **Funded Highway/Road Projects.** Notwithstanding any other provision of  
13 law, the cost to relocate any permitted encroachments as defined in this  
14 Chapter *shall* be paid for by federal funds when authorized by the grantor of  
15 federal funds pursuant to 5 GCA §54107, *except* to the extent the utility is  
16 making the request to move their infrastructure, in which case the utility  
17 *shall* bear the cost of relocation *unless* federal funding is available for such  
18 purposes. All costs to relocate a temporary permitted encroachment *shall* be  
19 paid by the owner of such temporary permitted encroachment.”

# I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: Sept. 19, 2011

## VOTING SHEET

SBill No. 114-31(COR)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL

15    0    0    0    0

CERTIFIED TRUE AND CORRECT:

  
 Clerk of the Legislature

\* 3 Passes = No vote  
 EA = Excused Absence





## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

2011 JUL 19 11 54 AM  
WLL  
8-4-11  
P.H.H.

July 19, 2011

**The Honorable Judith T. Won Pat, Ed.D.**

Speaker

I Mina'trentai Unu Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

**VIA: The Honorable Rory J. Respicio**  
Chairperson, Committee on Rules

**RE: Committee Report on Bill No. 114-31 (COR) As Substituted**

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 114-31 (COR) – An act to add a new §§54106 and 54107 to Chapter 54 OF 5GCA relative to allocating federal funds for mitigation and utilities relocation costs, to amend §§53101, 53103 and 53104; to add a new §53109 to Chapter 53 of 5GCA relative to defining utilities as *permitted encroachments*, and; to add a new §12029 to Chapter 12 of 12GCA relative to permitted encroachment revocations – As Substituted by the Committee on Public Works, Transportation, Utilities and Veterans Affairs.

Committee votes are as follows:

  4   TO DO PASS  
  0   TO NOT PASS  
  2   TO REPORT OUT ONLY  
  0   TO ABSTAIN  
  0   TO PLACE IN INACTIVE FILE

*Si Yu'os ma'åse',*

Thomas C. Ada



**Senator Thomas C. Ada**

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

**COMMITTEE REPORT  
ON**

**BILL No. 114-31 (COR)**

**AN ACT TO ADD A NEW §§54106 AND 54107 TO CHAPTER 54 OF 5GCA RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS, TO AMEND §§53101, 53103 AND 53104; TO ADD A NEW §53109 TO CHAPTER 53 OF 5GCA RELATIVE TO DEFINING UTILITIES AS *PERMITTED ENCROACHMENTS*, AND; TO ADD A NEW §12029 TO CHAPTER 12 OF 12GCA RELATIVE TO PERMITTED ENCROACHMENT REVOCATIONS**

**As Substituted by the  
Committee on Public Works,  
Transportation, Utilities and  
Veteran Affairs**




## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

July 19, 2011

### MEMORANDUM

To: **All Members**  
Committee on Public Works, Transportation, Utilities and Veterans Affairs

From: **Senator Thomas C. Ada**   
Committee Chairperson

Subject: **Committee Report on Bill No. 114-31 (COR) As Substituted**

Transmitted herewith for your consideration is the Committee Report on Bill No. 114-31 (COR) – An act to add a new §§54106 and 54107 to Chapter 54 OF 5GCA relative to allocating federal funds for mitigation and utilities relocation costs, to amend §§53101, 53103 and 53104; to add a new §53109 to Chapter 53 of 5GCA relative to defining utilities as *permitted encroachments*, and; to add a new §12029 to Chapter 12 of 12GCA relative to permitted encroachment revocations – As Substituted by the Committee on Public Works, Transportation, Utilities and Veterans Affairs.

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Substitute Bill No. 114-31 (COR)
- Copy of Bill No. 114-31 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Copy of COR Referral of Bill No. 114-31 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os ma'åse'!*



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
 31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

### COMMITTEE VOTE SHEET

Bill No. 114-31 (COR) – An act to add a new §§54106 and 54107 to Chapter 54 OF 5GCA relative to allocating federal funds for mitigation and utilities relocation costs, to amend §§53101, 53103 and 53104; to add a new §53109 to Chapter 53 of 5GCA relative to defining utilities as *permitted encroachments*, and; to add a new §12029 to Chapter 12 of 12GCA relative to permitted encroachment revocations – As Substituted by the Committee on Public Works, Transportation, Utilities and Veterans Affairs.

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
SENATOR THOMAS C. ADA Chairperson				✓ 7/19/11		
SENATOR ADOLPHO B. PALACIOS, SR. Vice Chairperson		7/19/11 ✓				
VICE SPEAKER BENJAMIN J.F. CRUZ Member						
SENATOR RORY J. RESPICIO Member				7/19/11 		
SENATOR TINA ROSE MUÑA BARNES Member						
SENATOR DENNIS G. RODRIGUEZ, JR. Member						
SENATOR V. ANTHONY ADA Minority Member		7-19-11 ✓				
SENATOR ALINE A. YAMASHITA, PH.D. Minority Member						
SENATOR MANA SILVA TAIJERON Minority Member		7-19-11 ✓				
SENATOR CHRISTOPHER M. DUEÑAS Minority Member		7/19/11 ✓				

## COMMITTEE REPORT DIGEST

### I. OVERVIEW

Bill 114-31 (COR) was introduced on March 21, 2011 by Senator V. Anthony Ada, and was subsequently referred by the Committee on Rules to the Committee on Public Works, Transportation, Utilities and Veterans Affairs on March 23, 2011.

The Committee on Public Works, Transportation, Utilities and Veterans Affairs convened a public hearing on Bill 114-31 (COR) on April 8, 2011 at 9:00 am in *I Liheslatura's* Public Hearing Room.

With the concurrence of the Author, some testimony and discussion for Bill 28-31 was incorporated into the Committee Report for SBill 114-31 due to the overlap in subject matter, and that portions of the former bill were added into the latter. Both bills were heard on the same day during the same public hearing.

#### **Public Notice Requirements**

Public Hearing notices were disseminated via email to all senators and all main media broadcasting outlets on Thursday, March 31, 2011 (5-Day Notice), and again on Wednesday, April 6, 2011 (48-Hour Notice).

#### **Senators Present**

Senator Thomas C. Ada	Committee Chairperson
Senator Adolpho B. Palacios, Sr.	Committee Vice-Chairperson
Senator Mana Silva Tajeron	Committee Member
Senator Aline A. Yamashita	Committee Member
Senator Christopher M. Dueñas	Committee Member
Senator V. Anthony Ada	Committee Member
Senator Frank F. Blas, Jr.	

#### **Individuals Present**

Atty. Graham Botha, Legal Counsel, GPA (*oral and written testimony*)  
Ms. Joanne Brown, Director, Department of Public Works (*oral and written testimony*)  
Mr. Carl Dominguez, Deputy Director, Department of Public Works (*oral testimony*)  
Mr. Dan Tydingco, Exec. VP of External and Legal Affairs, GTA (*oral testimony*)  
Atty. Jennifer Calvo-Quitugua, Legal Counsel, MCV Broadband (*oral and written testimony*)  
Mr. Craig Thompson, CEO, MCV Broadband (*oral testimony*)  
Atty. Sam Taylor, Legal Counsel, GWA (*oral and written testimony*)

### II. SUMMARY OF TESTIMONY AND DISCUSSION

The public hearing was Called-to-Order at 9:00 am.

**Carl Dominguez** - Mr. Dominguez read DPW's testimony (see attached).

**Joanne M.S. Brown** - Ms. Brown expressed the concerns of DPW. She noted that the current projects funded by the Federal Highway Administration allocate 100% of the funding to road construction and clarified that DPW does not have a surplus of \$150 million in accumulated federal funds (as asserted by MCV/GWA) and made clear that never had she stated to the Rotary Club that such a surplus existed. Mr. Thompson interjected that he was at the Rotary Club meeting and heard Ms. Brown state that DPW gets \$18.4M per year. Ms. Brown added that she did say that DPW gets \$18.4M a year but never said that they have an additional \$15M or \$16M sitting around. Mr. Thompson added that he believe the statement was that DPW received \$18.4M a year but were spending only \$3M to \$5M per year. Ms. Brown added that Mr. Thompson's statement was "totally inaccurate". Chairman Ada interjected that he knows that DPW gets over \$18M per year from FHWA and in the past DPW was spending \$3M to \$4M that accumulated to over a hundred million dollars; but today, DPW is "working feverishly to commit those funds". He added that he was never made aware that we had more money than there were projects on the table.

**Jennifer Calvo-Quitugua, Counsel MCV Broadband.** Attorney Calvo-Quitugua summarized MCV Broadband's/GWA's joint written testimony in favor of the bill. (Testimony attached). Attorney Calvo-Quitugua noted that the Attorney General's Office determined that the forced relocation of utilities is factually dissimilar from the facts of an AG's opinion cited as the basis to justify DPW's action. That case involved a single act of road blockage by a private landowner. In the case of the utilities, no roads are blocked and all utilities are duly permitted by DPW.

**Craig Thompson, CEO MCV Broadband.** Mr. Thompson noted that prior to 2009, DPW paid for utilities relocation costs and that MCV was simply asking for a return to pre-2009 treatment of utilities. He suggested that DPW use accumulated federal funds to pay for forced relocations rather than passing the cost on to the ratepayers of the utilities.

Mr. Thompson also testified in favor of the "for cause" provision of the bill and said that MCV is just seeking due process before being asked to move infrastructure.

Mr. Thompson also countered DPW's testimony by stating that MCV never asked for DPW to fund betterments.

**Samuel Taylor, GWA Counsel.** Mr. Taylor suggested that DPW's concern that utilities will be able to place infrastructure on rights-of-way without permits can be easily remedied by adding language that makes it clear that the placement of the infrastructure must be permitted. He noted that if GWA had to pay for the relocations, the rate increases needed to recover the costs would severely impact ratepayers. He suggested that the utilities create a consortium and assist DPW with the planning issues regarding future road projects. Chairman Ada interjected and encouraged Mr. Taylor confine his comments to the relocation costs. Mr. Taylor noted that the costs are a matter of policy and the policy call should be made now.

**Graham Botha, GPA Counsel.** Mr. Botha read GPA General Manager's written testimony in favor of the bill. (Testimony attached)

**Daniel J. Tydingco, GTA Exec. VP of External and Legal Affairs.** Mr. Tydingco testified in favor of the bill. He noted the need to balance the finite resources of DPW with the need to protect the infrastructure of the utilities. He emphasized the mandates that GTA were required to provide as part of the 2004 privatization agreement. He noted that relocation costs are expected to cost GTA \$7.3 million.

#### **Questions/Statements from Senators:**

**Senator Tony Ada** stated that passing the cost of the relocations to the ratepayers "is not right." He added that ratepayers could not afford the eventual increase in water, power, telephone, cable and internet. He asked Director Brown and Deputy Director Dominguez if they would support the use of federal funds for these relocation costs. Director Brown responded that she wished there was a big pot of federal money lying around. She noted that the cost to do this could exceed available federal funds if this occurs, it will severely affect road construction on Guam and that road projects could get cancelled to cover these costs. Senator Tony Ada added that no matter how little the amount of federal funds available, we should ask for it. He said that if the funds available can build five miles of roads but only four miles if we pay for the utilities then let's build only four miles.

**Senator Adolpho Palacios, Sr.** said he is still weighing whether the utilities ratepayers should pay the cost of relocations or use the federal funds at the expense of DPW road projects to pay for the relocations.

**Senator Aline Yamashita** commented that she liked the idea of the consortium and working together on future projects.

**Senator Chris Duenas** asked the private sector members of the panel if they felt communication services are an important service. Mr. Tydingco replied that GTA is mandated to provide lifeline rates and emergency communication services. Mr. Thompson added that MCV is now a phone company and provide 911 access and emergency broadcasts services. Senator Duenas said he differed with the characterization in the DPW testimony that communications were not important.

Senator Duenas told DPW Director Brown that they were not on the same page with regard to the non-organic growth road projects (DOD projects). He understands the issues with the organic growth funding but that military project still have room to negotiate for the DOD pay for the relocation and mitigation costs. Director Brown added that her testimony did not address the DOD road projects. Senator Duenas called that poor planning because both the DOD and organic growth projects must be planned together. Director Brown noted that some of the questions can't be answered by her and only the Federal government can answer some of the questions. She concluded that there are no standards for utility locations and that makes determine the cost of relocations and that it is important to plan these standards ahead of time. Senator Duenas agreed.

**Senator Frank Blas, Jr.** asked Director Brown if during the discussions that lead to the current funding of road projects did DPW request for mitigation funds? Director Brown testified that each project had unique issues and that there are substantial issues and the some of these concerns are still being negotiated. She maintained that there is no formula to determine advanced funding requests because it is impossible to know what to expect until they start construction on the project.

Senator Blas also said he preferred to build 4 miles of roads and not burden the ratepayers than to build 5 miles. Director Brown reiterated DPW's primary mission is to build roads and to maximize the use of resources for that purpose.

**Chair Tom Ada** concluded that addressing this issue was started last year. He noted that in his discussion with the FHwy representative, that she stated federal funds could be used for relocations if Guam law allowed it. He committed to bring closure to this issue within the quarter. He added that with regard to the telecommunications companies especially, that he would like to see other funds used to cover the cost of relocations and to shift the burden of the away from the consumer as much as possible. Director Brown inquired about using the permit fees that the utilities pay for the use of the rights of way. She added that she didn't know where those funds were spent.

**Chair Tom Ada:** Adjourns public hearing at 3:33 pm.

### **III. FINDINGS AND RECOMMENDATIONS**

The Committee on Public Works, Transportation, Utilities and Veterans Affairs has substituted Bill No. 114-31 (COR) with the following significant changes:

- Amended definitions to §53101 of Chapter 53, 5GCA;
- New sections defining utilities as permitted encroachments and outlining revocation of permitted encroachments.

The Committee on Public Works, Transportation, Utilities and Veterans Affairs hereby reports out Bill 114-31 (COR), As Substituted by the Committee, with the recommendation **TO REPORT OUT ONLY.**



I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2011 (FIRST) REGULAR SESSION

2011 MAR 21 11:04 AM

Bill No. 114-31(cov)

Introduced by:

V. Anthony Ada  
C. Duenas  
F.F. Blas

**AN ACT ADD A NEW §§54106 AND 54107 TO CHAPTER  
54 OF 5GCA RELATIVE TO ALLOCATING FEDERAL  
FUNDS FOR MITIGATION AND UTILITIES  
RELOCATION COSTS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Section 54106 is *added* to Chapter 54 of 5GCA to read as  
3 follows:  
4

5 **“§54106. Federally Funded Highway Projects - Mitigation Expenses.** To the  
6 extent that business/residential/traffic mitigation costs are authorized or allowed by  
7 the grantor of federal funds for highway/road projects, the Department of Public  
8 Works *shall* allocate a sufficient portion of such federal funds for mitigation  
9 expenses related to such highway/road projects.”  
10

11 **Section 2.** A new Section 54107 is *added* to Chapter 54 of 5GCA to read as  
12 follows:  
13

14 **“§54107. Federally Funded Highway Projects – Utilities Relocation Expenses.**  
15 To the extent that utilities relocation costs are authorized or allowed by the grantor  
16 of federal funds for highway/road projects, the Department of Public Works *shall*  
17 allocate a sufficient portion of such federal funds for utilities relocation expenses  
18 related to such highway/road projects.”

*I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
**2011 (FIRST) REGULAR SESSION**

**Bill No. 114-31 (COR)**

As Substituted by the Committee on  
Utilities, Transportation, Public Works and Veterans Affairs

**Introduced by:**

V. Anthony Ada  
C. Duenas  
F.F. Blas

**AN ACT ADD A NEW §§54106 AND 54107 TO  
CHAPTER 54 OF 5GCA RELATIVE TO  
ALLOCATING FEDERAL FUNDS FOR  
MITIGATION AND UTILITIES RELOCATION  
COSTS; TO AMEND §§53101, 53103 AND 53104;  
TO ADD A NEW §53109 TO CHAPTER 53 OF  
5GCA RELATIVE TO DEFINING UTILITIES AS  
PERMITTED ENCROACHMENTS, AND; TO ADD  
A NEW §12029 TO CHAPTER 12 OF 12GCA  
RELATIVE TO PERMITTED ENCROACHMENT  
REVOCATIONS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Section 54106 is *added* to Chapter 54 of 5GCA to read as  
3 follows:

4 **“§54106. Federally Funded Highway Projects - Mitigation Expenses.** To  
5 the extent that business/residential/traffic mitigation costs are authorized or  
6 allowed by the grantor of federal funds for highway/road projects, the Department  
7 of Public Works *shall* allocate a sufficient portion of such federal funds for  
8 mitigation expenses related to such highway/road projects.”

1 **Section 2.** A new Section 54107 is *added* to Chapter 54 of 5GCA to read as  
2 follows:

3 **“§54107. Federally Funded Highway Projects – Utilities Relocation**  
4 **Expenses.** To the extent that utilities relocation costs are authorized or allowed by  
5 the grantor of federal funds for highway/road projects, the Department of Public  
6 Works *shall* allocate a sufficient portion of such federal funds for utilities  
7 relocation expenses related to such highway/road projects.”

8 **Part II**

9 **Section 1.** Section 53101 of Chapter 53 of Title 5 of the Guam Code  
10 Annotated is hereby *amended* to read as follows:

11 **“53101. Definitions.**

12 As used in this Chapter

13 (a) *Department* means the Department of Public Works.

14 (b) *Director* means the Director of Public Works.

15 (c) *Highway* means all or any part of the entire width of right of way,  
16 whether or not such entire area is actually used for highway purposes.

17 (d) *Encroachment* means any tower, pole, poleline, pipe, pipeline, fence,  
18 billboard, stand or building, or any structure or utility infrastructure not  
19 particularly mentioned, which is placed in, under or over any portion of a  
20 highway.

21 (e) *Betterment* means any upgrade of the utility facility being relocated that  
22 is not attributable to a highway construction project and is made solely for the  
23 benefit of and at the election of the utility.

24 (f) *Permitted encroachment* means the assets or infrastructure of a utility  
25 permitted by the Department of Public Works to use public right-of-way. This  
26 definition does not apply to sign permits. *Permittees*, for purposes of this  
27 Chapter, are the owners or lessors of a permitted encroachment.

1 (g) Permitted temporary encroachment means any sign, advertisement or  
2 other temporary structure that is permitted by the Department of Public Works  
3 to be posted on Government of Guam rights-of-way. Temporary Permittees,  
4 for purposes of this Chapter, are the owners or lessors of a permitted temporary  
5 encroachment.

6 (h) Utility means the Guam Power Authority, the Guam Waterworks  
7 Authority or their legal successors, and public or legally licensed purveyors of  
8 telecommunication services.

9 **Section 2.** A new §53102(a)(5) is hereby *added* to Chapter 53 of Title 5 of the  
10 Guam Code Annotated to read as follows:

11 “(5) Place in, under or over any highway, and perform routine maintenance and  
12 emergency repairs on utility equipment and facilities.”

13 **Section 3.** Section 53103 of Chapter 53 of 5GCA is hereby *amended* to read as  
14 follows:

15 **§ 53103. Permit Terms.**

16 Any permit issued under the provisions of this Chapter may provide that the  
17 permittee will pay the entire expense of replacing the highway in as good  
18 condition as before for repairs made to a permitted encroachment, and may  
19 provide such other conditions as to the location and the manner in which the  
20 work is to be done as the Department finds reasonably necessary for the  
21 protection of the highways. All permits shall provide that they are revocable,  
22 for cause, upon ~~five~~ thirty (30) days’ written notice by the Department. Cause  
23 for revocation is the presence of any asset of any permittee that is adversely  
24 affecting the use, repair, improvement or access to the highway or as specified  
25 in §53107 (b)(c)(d) of this Chapter. A permittee shall have an opportunity to  
26 file an appeal of a revocation by DPW with the Public Utilities Commission, as  
27 set forth in 12GCA: §12029.

1        The expenses to the permittee “of replacing the highway in as good  
2        condition as before,” for repairs of permitted encroachments *supra*, shall be  
3        waived to the extent that there are local government and/or federal funds  
4        available or accessible for such purposes.

5        All costs of betterments and relocate all non-utility private infrastructure  
6        shall be paid by the owner of such infrastructure.

7        The Department shall coordinate with all affected utilities when planning  
8        highway construction and shall include the costs of any utility relocations when  
9        requesting local government and/or federal funds in connection with such  
10       construction.

11       **Section 4.** Section 53104 of Chapter 53 of 5GCA is hereby *amended* to read as  
12       follows:

13        **§53104. Cost of Work Supervision.**

14       The Department may, but is not required to, supervise any work done under  
15       any permit issued under the provisions of this Chapter, in which event, the  
16       permittee shall pay the reasonable cost of such supervision to the Department  
17       except to the extent that there are local government and/or federal funds  
18       available or accessible for such purposes.

19       **Section 5.** A new §53109 is hereby *added* to Chapter 53 of 5GCA to read as  
20       follows:

21        **“§53109. Relocation of Permitted Encroachments for Federally**  
22        **Funded Highway/Road Projects.** Notwithstanding any other provision of law  
23        the cost to *relocate* any permitted encroachments defined in this Chapter shall  
24        be paid for by local or federal funds except to the extent the utility is making  
25        the request to move their infrastructure, in which case the utility shall bear the  
26        cost of relocation unless federal or local funding is available for such purposes.

1 All costs to relocate a temporary permitted encroachment shall be paid by the  
2 owner of such temporary permitted encroachment.”

3 **Section 6.** A new §12029 is *added* to Chapter 12 of 12GCA to read as follows:

4 “§12029. **Appeal of Permitted Encroachment Revocations.** Following a  
5 public hearing(s) on the matter, the Commission is authorized to sustain or  
6 overturn a permit revocation order issued pursuant to §53103 of 5GCA by the  
7 Department of Public Works. This authority applies solely to permits issued to  
8 utility owned or leased permitted encroachments as defined in §53101(f) of  
9 5GCA.”

10 **Section 7. Effective Date.** This Act shall become effective upon enactment.





The Honorable  
EDDIE BAZA CALVO  
Governor

The Honorable  
RAY TENORIO  
Lt. Governor



JOANNE M.S. BROWN  
Director  
CARL V. DOMINGUEZ  
Deputy Director

April 8, 2011

The Honorable Thomas C. Ada  
Chairperson  
Committee On Utilities, Transportation, Public Works and Veterans Affairs  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
155 Hessler Place  
Hagåtña, Guam 96910

**Subject: Testimony Concerning Bill No. 114-31, an Act to Add a new §§ 54106 and 54107 to Chapter 54 of 5 GCA Relative to Allocating Federal Funds for Mitigation and Utilities Relocation Costs**

Hafa adai Senator Ada:

The Department of Public Works (DPW) respectfully submits the following testimony on Bill No. 114-31. This particular bill is aimed at addressing the costs involved when utilities are necessarily relocated during a highway construction project. It is noted that Bill No. 114-31 applies only to the relocation of utilities in federally-funded projects. Locally funded highway construction projects are not included.

DPW has concern about the following sections contained in Bill No. 114-31. First, proposed Section 54106 which requires that DPW allocate federal funds for mitigation costs "*to the extent authorized or allowed by the grantor of federal funds*" is vague, overbroad, and ultimately of no effect. As stated in the Guam Procurement Law and Regulations [5 G.C.A. § 5501], any federal funds received by Guam must be used in accordance with federal law and grant requirements. In the event of a conflict between federal and Guam law, the federal law prevails:

**5 G.C.A. § 5501. Federal Funds.**

Where a procurement involves the expenditure of federal assistance or contract funds, or other federal funds as defined by Section 20 of the Organic Act of Guam, **all persons within the government of Guam shall comply with such federal law and regulations which are applicable and which may be in conflict** with or may not be reflected in this Chapter. (Emphasis added).



*See also*, 2 G.A.R. § 10101 [same].

Thus, regardless of what is stated in Bill No. 114-31, it is a condition of federal funding that all applicable federal laws and regulations be followed. Proposed Section 54106 appears to be an attempt to reiterate this principle and does not do anything new. For instance, it is already provided in federal law that highway grant funds generally cannot be used for infrastructure betterments or business mitigation costs. [24 C.F.R. § 24.301(h)]. And although it is unclear what Section 54106 means by “traffic mitigation” costs, to the extent that traffic can be alleviated and controlled, federal regulations already contain stringent guidelines.

Second, with respect to proposed Section 54107 which requires that DPW allocate federal highway funds for utility relocation costs to the extent that such costs are “*authorized or allowed by the grantor of federal funds*,” this Section is also troublesome. Guam is a recipient of federal highway grant funds overseen by the Federal Highway Administration (FHWA). Generally, the FHWA will reimburse utility relocation costs according to what is provided in Guam law.<sup>1</sup> Any reimbursement, however, is subject to the concurrence and approval of the FHWA.

FHWA can decline to reimburse if it finds compelling reasons to do so. In other words, if the FHWA finds that the cost of 100% reimbursement will drain highway funds away from a project, or if the resulting impact on the public will be prejudicial, then the FHWA can decline to provide reimbursement. As DPW has stated in the past, the Government of Guam must not lose sight of the fact that its obligation is to serve the people of Guam. When a utility (whether public or private) desires to use a public right-of-way located below or alongside a highway, then the utility’s use of the right-of-way must be tempered with the public’s best interest. In return for this benefit, when the need calls for it, these entities must be required to come to the table and participate in the burden.

Utility companies are *very* well aware of this. In the attached Easement Agreement signed by former Gov. Paul M. Calvo on June 21, 1979, the Guam Cable TV

(now known as Marianas Cablevision) agreed that in return for permission to put its transmission lines within public property, it would not only pay the Government a rental

---

<sup>1</sup> 23 C.F.R. § 645.103(d) (“The FHWA’s reimbursement to the [State Transportation Department] will be governed by State law (or State regulation) or the provisions of this regulation, whichever is more restrictive. When State law or regulation differs from this regulation, a determination shall be made by the [State] subject to the concurrence of the FHWA as to which standards will govern, and the record documented accordingly, for each relocation encountered.”).

fee for the use of the property, but also that it would pay for all expenses involved in relocating its equipment:

In consideration of the use of the public easements and rights of way, Cable TV shall pay the Government the sum of One Hundred Nineteen Dollars and Seventy Cents (\$119.70) per mile of easement or right of way used, per annum, less the utility pole rental paid by Cable TV to GPA (or any other agency) . . . .

Easement Agreement between the Government of Guam and Guam Cable TV, at page 4, section 2.<sup>2</sup>

The Government may require the relocation of a particular line, conduit, or equipment, within the same right of way or easement, if such change is made necessary by new circumstances. **Cable TV shall bear all expenses incurred in relocating its conduits, lines and equipment.** (Emphasis added).

Easement Agreement between the Government of Guam and Guam Cable TV, at page 6, section 4.

The Easement Agreement between the Government of Guam and Guam Cable TV was later assigned to MCV, which is the present successor in interest. Under the terms of the Easement Agreement, MCV contractually agreed that it would “bear all expenses incurred in relocating its conduits, lines and equipment” should the Government of Guam require that the same be relocated.

Similarly, the former Guam Telephone Authority (GTA) also agreed that it was obligated to pay for the privilege of occupying public property. This policy was iterated in Public Law 26-70 where *i Liheslaturan* stated that upon the privatization of GTA, the Government of Guam would “retain title to all land owned by the Government of Guam” used by GTA in exchange for a lease.<sup>3</sup> On December 31, 2004, GTA thereafter executed

---

<sup>2</sup> Under the federal CABLE COMMUNICATIONS POLICY ACT OF 1984 (47 U.S.C. Section 542(b))<sup>2</sup>, the Government of Guam is also lawfully entitled to charge cable companies a maximum of 5% of gross revenues derived from its operation of cable services for the use of space in the public right-of-way.

<sup>3</sup> GUAM P.L. 26-70:2 (*GTA Privatization Rules and Regulations*) at Rule 10 (2001).

a Ground Lease for an initial basic term of 10-years, plus two 20-year extensions. The Ground Lease provides that at the end of 2014, if GTA elects to exercise its 20-year extensions, it will pay the Government a rental rate to be determined based upon a number of factors, including fair market value.<sup>4</sup>

Likewise, the public utilities are also very aware that streets and rights of way belong to the people and that the Government cannot and should not be giving away their property without any compensation whatsoever nor should the public be charged for 100% of the costs incurred when necessarily relocating a utility. A company desiring to attach to equipment or poles belonging to the Guam Power Authority (GPA) is required to enter into a rental or license agreement with GPA, sample copies of which are attached.<sup>5</sup> These agreements state generally that should the Government (acting through GPA) require that equipment be relocated, then *the attaching company will pay for the entire relocation expense*.

The Cable TV Easement Agreement and the GPA Rental Agreements arguably demonstrate an understanding on the part of these companies that the occupation and use of the public right-of-way is a privilege AND a burden that must be shared by all concerned. It is not in the best interest of Guam to require that utility relocations be reimbursed 100% because such action risks the loss of federal funding and the chance to make Guam's highways and roads comfortable and safe for the people.

For all of these reasons, it is respectfully suggested that rather than demanding or requiring 100% funding, *i Liheslaturan* instead acknowledge the public's interest in assuring the participation of *all* entities using the right-of-way. This can be accomplished through cost-sharing where relocation expenses would be partially paid for with federal funds and partially paid for by the utility. DPW would be happy to work with *i Liheslaturan* and the affected utility or telecommunication companies in formulating a cost-sharing program or a proposed law that is satisfactory to all.

---

<sup>4</sup> Ground Lease between Government of Guam and Teleguam Holdings, LLC at Art. 4 (Dec. 31, 2004); Memorandum of Ground Lease, DLM Doc. No. 702261 (Jan. 3, 2005).

<sup>5</sup> Rental Agreement between Guam Power Authority and Island Wireless Cable, at page 3, section 7; Rental Agreement between Guam Power Authority and IT&E Overseas, Inc., at page 3, section 7.

Thank you very much for permitting DPW an opportunity to submit this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joanne M.S. Brown', with a long, sweeping underline that extends to the right.

JOANNE M.S. BROWN

*Attachments:*

- (1) Easement Agreement between the Government of Guam and Guam Cable TV
- (2) Rental Agreement between Guam Power Authority and Island Wireless Cable
- (3) Rental Agreement between Guam Power Authority and IT&E Overseas, Inc.

April 7, 2011

**VIA HAND DELIVERY**

Honorable V. Anthony Ada  
Senator

**I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN**  
Bridge Pointe Bldg.  
140 Aspinall Avenue, Suite 202  
Hagatna, Guam 96910

*GTR* 4/11/11 9:21 AM  
RECEIVED by the  
Office of Senator  
Thomas C. Ada

**RE: BILL NO. 28-31 AND BILL NO. 114-31**  
**REGARDING UTILITY RELOCATION EXPENSES**

Dear Senator Ada:

This letter is jointly submitted by the Guam Waterworks Authority (“GWA”) and Guam Cablevision LLC (“MCV”) in support of Bill No. 28-31 – “An Act to Repeal and Reenact Section 53101, Amend Sections 53103 and 53104 and to Add a New Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated Relative to Permitted Utility Encroachments” (“Bill 28-31”) and Bill No. 114-31 – “An Act to Add New Sections 54106 and 54107 to Chapter 54 of 5 GCA Relative to Allocating Federal Funds for Mitigation and Utilities Relocation Costs.” (“Bill 114-31”) (Bill 28-31 and Bill 114-31 are sometimes referred to collectively herein as the “Bills”).

As you know, the road work initiated by the Department of Public Works (“DPW”) pursuant to the Transportation Plan has had unintended adverse effects on local businesses. Recently, Bill 36-31 was passed to provide grants and loans to small and mid-size business owners who experience hardships and business interruption resulting from government-sanctioned projects or construction activity involving public infrastructure. Similarly, we understand that Bill 28-31 and Bill 114-31 are intended to eliminate the significant costs of utility relocations necessitated by road work performed by DPW where federal or local government funds are available for such purposes. The Bills are critical to ensuring the

continued provision of utility services at reasonable rates without obliging utilities to impose relocations costs on our customers and rate payers.

In addition to written and verbal testimony which may be provided independently by MCV, GWA and other affected utilities, the following joint concerns of MCV and GWA are set forth separately below.

***1. Federal Law Expressly Allows the Federal Highway Funds to be Used to Cover the Expenses Incurred by Utilities in Forced Relocations Due to Road Work Undertaken by Local Governments***

There is a clear basis in federal law for the allocation of funding to the states and territories, including Guam, to cover the costs of relocating utility facilities when necessitated by road improvements if state law expressly provides for a waiver or advance payment for such costs. 23 C.F.R. § 645.101 et seq. Therefore, the proposed amendments to Guam law to allow the federal government to pay the lion's share of relocation costs are not unprecedented or without a well-established justification; in fact, such laws were adopted by numerous states years ago and these states currently engage in the practice of assuming the costs of relocation that would otherwise be charged to utilities for relocation when the government has initiated road construction that affects their utilities.

It is well-established that the Federal Highway Administration ("FHWA") permits its funds to be used to finance forced relocations of networks. MCV and GWA support Bill 28-31 and Bill 114-31, which would enable access to such federal funds to keep utility rates as low as possible for our customers.

***a. Reliance on Existing Legal Authority Regarding Removal of "Encroachments" and Payment of Costs Associated Therewith is Misplaced***

In opposing the proposal to waive or advance forced relocation costs, DPW has relied on an Attorney General Opinion dated May 11, 2009 regarding the removal of encroachments on public easements as permitted under 5 GCA § 53108. This reliance is problematic. First, the situation discussed in the Opinion involves a single incident where a

private landowner blocked a right of way, prohibiting public access. The Attorney General concluded that the road block constituted an encroachment that was removable by DPW at the expense of the landowner pursuant to 5 GCA § 53108. Clearly, the issue addressed in the Opinion is factually dissimilar and minimally relevant to the issue of large-scale forced utility relocation and responsibility for the costs thereof.

Second, the result of applying the Opinion to the issues currently facing local utilities is also inequitable because the existing facilities and equipment of the utilities are properly permitted and only require removal/relocation to accommodate road construction initiated by DPW. Finally, while the Opinion may be persuasive in determining the scope of DPW's authority concerning removal of utility facilities located within public roads and rights of way, it is certainly not binding authority.

**2. *Requiring Utilities to Pay for Relocation Costs is Excessively Burdensome***

The application of current Guam law which requires utilities to pay for relocation costs, even when relocation is forced by road work initiated by the government, creates an undue burden on the utilities, its ratepayers and your constituents. Simply put, the costs connected with the planned road work and expansion in the next several years are not within the fiscal capacity of the affected utilities and waiting until the utilities have the funds will substantially delay the road improvement projects.

**a. *Road Work Undertaken per DPW's Highway Masterplan Will Result in Exorbitant Relocation Costs***

With the military buildup generating a great deal of road work in the near future for a considerable period of time, the total cost of forced relocations of utilities networks will skyrocket. To provide some historical perspective, numerous states amended their utility relocation laws in the 1950's when federal highway improvements became more frequent and on a larger scale. As a result of the highway construction and renovation, the incidence and costs of

utility relocations inevitably increased. Consequently, utilities urged state and federal lawmakers to revisit utility relocation laws and consider waiving or advancing such costs.

Similarly, as is the case here, the massive scope of the road improvements detailed in the Transportation Plan clearly compels local utilities to relocate existing, permitted facilities in order continue providing their respective services to local residents. Therefore, the undersigned utilities support Bill 28-31 and Bill 114-31, as the Bills provide legislative relief from these costs which will either stifle operations of the affected utilities or require customers and rate payers to assume responsibility for these consequential expenses of the Transportation Plan.

***b. None of the Impacted Utilities Have Budgeted for the Cost of these Forced Relocations, Which Total Millions of Dollars***

Based on the most recent version of the Transportation Plan, it is clear that forced relocations of utilities will conservatively result in millions of dollars of expense for Guam's utilities. The following methodology was used to calculate such costs:

1. Using historical costs from past project, each utility generated an average per mile and per foot rate for underground and, where applicable, aerial facilities.
2. Each utility then applied these historical per foot costs to the proposed DPW road improvement projects named in the FY2008-2011 TTIP Amendment 2. This allowed each utility to arrive at an estimated price for each road project identified in Amendment 2.
3. Each utility added all amounts for the Amendment 2 projects to determine its total relocation costs caused by DPW projects identified in Amendment 2.

For your reference, detailed projections of the relocation costs involved for MCV and GWA are attached hereto as Exhibit A.



The expected cost of MCV's and GWA's forced relocations alone collectively total over \$50,000,000.00. Neither one of these impacted utilities has budgeted for such expenses. Without the amendments to Guam law proposed in Bill 28-31 and Bill 114-31, the sudden impact of this significant cost will require immediate action by the affected utilities to pay for such costs and these costs will be shifted to our ratepayers as discussed below.

**3. *Affected Utilities Will Be Forced to Pass On Costs to Customers and Rate Payers***

Since the relocation costs are an unplanned, extraordinary and sizeable expense, the only recourse for affected utilities is to pass on these amounts to customers and rate payers to generate the money needed to pay for these forced relocations since all of Guam's utilities are self-sustaining operations that do not receive subsidies from the General Fund. As a result, rates for power, water, telephone, internet and cable will be increased significantly.

MCV and GWA calculated their respective estimated rate increases by applying a 3-year amortization to its total cost identified in Exhibit A across its subscriber/rate payer base. The estimated rate increases are as follows:

- a. GWA estimated that its rates will increase by 10.87% in order to generate the over \$48,000,000.00 in relocation costs necessitated by the DPW projects identified in the FY2008-2011 TTIP Amendment 2, as shown in Exhibit A.
- b. MCV estimated that its rates will increase by \$3.00 per month per subscriber, which results in an annual rate increase of \$36.00 per subscriber. The total increase per subscriber over a 3-year period is \$108.00.

Further, such rate increases will likely be implemented in rapid succession, if not simultaneously, which is detrimental to the public interest. Our services are essential to all of our customers. Without an amendment to existing Guam law, the ability of the undersigned to

continue to provide these services will be impaired unless customers and rate payers assume the expense of relocating our facilities and networks.

**4. *The Department of Public Works has a Significant Surplus of Federal Funds to Cover Utility Relocation Costs***

In a presentation by DPW to the Rotary Club of Guam last month, Director Joanne Brown explained that the FHWA allocates *\$18,400,000 million* annually to the Government of Guam for the purposes of planning, designing and constructing improvements to Guam's roads. However, for the past several years, DPW has only expended between \$3,000,000 to \$5,000,000 annually of such funds, resulting in an accumulated surplus of approximately \$150,000,000.

Although DPW is currently undertaking construction on several projects and has numerous projects planned for upcoming years, there will be separate allocations of federal funds for such projects. As a result, according to Director Joanne Brown, DPW will only use about \$115,000,000 of its surplus, leaving *excess funds in the approximate amount of \$35,000,000*. The availability of this funding source – in addition to funds that will be allocated to DPW by the FHWA for future road projects – provide yet another basis for allowing payment of forced utility relocation costs instead of passing on such costs to local customers and rate payers.

**5. *Public Policy Supports Federal Funding of Utility Relocation Costs***


Based on the above, it appears that the two options available given the present circumstances and plans for future road work on Guam are: (1) amend the laws to allow the Federal Highway Fund to pay for these forced relocations; or (2) require our customers to pay for the relocations. When these options have been discussed, one question is raised repeatedly: if Guam chooses to use federal funds to pay for forced utility relocations, will DPW have less overall money for future road work (i.e. the FHWA caps the amount per mile to a total dollar figure regardless of use) *or* will the FHWA allocate more funds to Guam to perform the same amount of road construction including covering the forced relocations?

If the FHWA will allocate more dollars, it is obvious that this burden should be shifted from local consumers to the FHWA. However, even if DPW is subjected to a cap on its highway funds causing less mileage of road repairs, which seems unlikely given the surplus of federal funds discussed above, it is our position that the public interest favors fewer road repairs over shifting the burden for forced utility relocations to affected utilities and consequently, to local consumers and rate payers.

Although there is a difference of opinion among the utilities, DPW and other affected parties as to the appropriateness of allowing a waiver or an advance payment for relocation costs, it is a much more prudent public policy to have the Federal Highway Fund pay for these forced network relocations rather than the customers of the utilities. If government funds are available, local customers and rate payers should not be troubled with an avoidable expense.

For the foregoing reasons, we respectfully ask that you seriously consider the concerns set forth above. If you have any questions regarding the issues raised in this letter, or if you would like any additional information, please do not hesitate to contact any of the signatories below. Thank you very much for your consideration.

**GUAM CABLEVISION LLC**

By:   
CRAIG THOMPSON  
President and Chief Executive Officer

**GUAM WATERWORKS AUTHORITY**

for By:   
JOHN BENAVENTE  
General Manager

cc: Honorable Edward B. Calvo, Governor of Guam  
Members, Committee on Utilities, Transportation, Public Works  
and Veterans Affairs  
All Senators, Mina' Trentai Unu Na Liheslaturan Guåhan

# **EXHIBIT A**

## **ESTIMATED RELOCATION COSTS**

**MCV's**

**ESTIMATED RELOCATION COSTS**

**FHWA ROAD IMPROVEMENT PROJECTS**

PROJECTS	PLANT DESCRIPTION	ESTIMATED FOOTAGE		ESTIMATED COST
		U/G	AE	
<b>DEFENSE ACCESS ROAD PROJECTS</b>				
AGANA BRIDGE & INTERSECTION IMPROVEMENTS & REPLACEMENTS	AERIAL PLANT		1381	\$17,262.50
ROUTE 1 & ROUTE 3 INTERSECTION IMPROVEMENTS	AERIAL PLANT		1000	\$12,500.00
ROUTE 1 & ROUTE 11 INTERSECTION IMPROVEMENTS	AERIAL PLANT / UNDERGROUND	300	1434	\$33,825.00
ROUTE 11 IMPROVEMENTS TO PAG AND TRUCK ENFORCEMENT STAT.	AERIAL PLANT		293	\$3,662.50
ROUTE 3/ROUTE 28 INTERSECTION TO CHALAN KARETA	AERIAL PLANT		9836	\$122,950.00
CHALAN LUJUNA FROM ROUTE 15 TO ROUTE 1	AERIAL PLANT / UNDERGROUND	1652	2666	\$120,881.00
				<b>\$311,081.00</b>
<b>AMERICAN RECOVERY &amp; REINVESTMENT ACT</b>				
ROUTE 25 ALAGETA ROAD RECONSTRUCTION & WIDENING	AERIAL PLANT	0	5031	\$62,887.50
ROUTE 4 YLIG BRIDGE TO PAGO BAY WIDENING & RESURFACING	AERIAL PLANT / UNDERGROUND	11904	14075	\$806,850.00
MASSO RIVER BRIDGE RESTORATION	N/A	0	0	0
ROUTE 17 REHABILITATION & WIDENING (RT. 4 TO 4T. 4A)	AERIAL PLANT / UNDERGROUND	300	1000	\$28,400.00
ROUTE 2 RECONSTRUCTION / REPAIR OF 3 CULVERTS & 1 SLIDE	N/A	0	0	0
				<b>\$898,137.50</b>
<b>EMERGENCY RELIEF PROJECTS</b>				
ROUTE 4 INARAJAN NORTH LEG (AS-MISA) BRIDGE SCOUR REPAIR	AERIAL PLANT		200	\$2,500.00
ROUTE 4 AJAYAN REPLACEMENT. DESIGN, REBUILD	AERIAL PLANT		200	\$2,500.00
ROUTE 4 AGFAYAN BRIDGE REPLACEMENT	N/A		0	\$0.00
RT 4 MERIZO BRIDGE APPROACH & ROADWAY EMBANKMENT RESTO.	AERIAL PLANT		200	\$2,500.00
ROUTE 6A MURRAY ROAD RECONSTRUCTION / IMPROVEMENTS	AERIAL PLANT		4924	\$61,550.00
ROUTE 11 SHORE PROTECTION CABRAS ISLAND	N/A	0	0	0
				<b>\$69,050.00</b>
<b>BRIDGE PROJECTS</b>				
GUATALI / ATANTANO BRIDGE TEMP & PERMANENT REPAIRS	UNDERGROUND	1000		\$3,130.00
BILE / FIGUA BRIDGE REPLACEMENT	AERIAL PLANT		1619	\$20,237.50
MASSO RIVER BRIDGE RESTORATION	N/A	0	0	0
TALEYFAK BRIDGE RESTORATION IN AGAT	AERIAL PLANT		882	\$11,025.00
APLACHO BRIDGE REPLACEMENT (DESIGN & BUILD)	AERIAL PLANT		1661	\$20,762.00
ROUTE 4 YLIG BRIDGE REPLACEMENT (DESIGN & BUILD)	AERIAL PLANT		958	\$3,958.70
REHABILITATION OF RT.4 BRIDGES - TALOFOFO & TOGCHA	UNDERGROUND (TALOFOFO)	9741		\$31,810.64
				<b>\$90,923.84</b>
<b>ROADWAY PROJECTS</b>				
ROUTE 1 HARMON SINK DRAINAGE DISPOSAL SYSTEM	AERIAL PLANT		400	\$5,000.00
ROUTE 2 RECONSTRUCTION / REPAIR OF 3 CULVERTS & 1 SLIDE	N/A	0	0	0
ROUTE 4 FROM MCDONALDS TO ROUTE 10 3R PROJECT	AERIAL PLANT / UNDERGROUND		6150	\$108,739.02
ROUTE 4 AS-ALONSO AREA TYPHOON & EARTHQUAKE REPAIR	AERIAL PLANT	0	600	\$7,500.00
ROUTE 4 MERIZO - MANNEL CHANNEL (BARCINAS AREA)	AERIAL PLANT		450	\$5,626.00
ROUTE 4 TOGCHA RIVER TO IPAN BEACH PARK	AERIAL PLANT		2220	\$27,750.00
ROUTE 11, ROUTE 1 TO PAG AND TRUCK ENFORCEMENT SCREENING	AERIAL PLANT		293	\$3,662.50
ROUTE 10A (AIRPORT ROAD / CHALAN PASAJEROS) RT. 1 TO GIAA	AERIAL PLANT / UNDERGROUND	785	1938	\$65,830.00
ROUTE 15 RESTORATION OF ROADWAY CONCRETE GUTTER, DOC	AERIAL PLANT		2042	\$25,525.00
ROUTE 15 RESTORATION OF ROADWAY NEAR TON ROBIT	AERIAL PLANT		2290	\$28,625.00
ROUTE 28 FROM CHALAN IBANG ROAD TO ROUTE 1	AERIAL PLANT / UNDERGROUND	10653	12965	\$726,672.00
UKUDU SCHOOL TRAFFIC SIGNAL TEMP /PERM. INSTALLATIONS	N/A	0	0	0
ADACAO SCHOOL TRAFFIC SIGNAL TEMP /PERM. INSTALLATIONS	N/A	0	0	0
ROUTE 27 FINEGAYAN RD. RECONSTRUCTION & DRAINAGE IMPROV.	AERIAL PLANT / UNDERGROUND	5000	2494	\$296,175.00
ROUTE 33, ROY T DAMIAN ST. (STARTING AT ROUTE 8)	AERIAL PLANT / UNDERGROUND	500	10100	\$152,750.00
				<b>\$1,453,854.52</b>

Estimates based on actual DPW Plans on hand

Grand Total **\$2,823,046.86**

Estimated cost per foot

Underground	\$	53.00
Aerial	\$	12.50

**GWA'S**

**ESTIMATED RELOCATION COSTS**

	Approximate length of roadway	sewer	water	Unit cost sewer	Unit cost water/bridge	Unit cost bridge	Comments
GU-DAR-001(125)	RT 1/Rt3 Inter Improv	-	-	\$ 176	\$ 142	\$ 445	
GU-DAR-011(008)	RT 1/RT 11 Inter Improv	1,600	1,200	\$ 550	\$ 77,925		No water or sewer infrastructure
GU-DAR-0003(105)	RT 3 (Rt.28 to Chin Kareta	16,000	16,000	\$ 1,760,000	\$ 2,264,000		Sewer force main, no gravity
GU-DAR-CHLU (001)	Chin Lujuna (Rt 15-Rt1)	4,500	3,300	\$ 3,300	\$ 466,950		
GU-NH-0002	RT 2 reconstruction 3 culverts	500	500	\$ 88,000	\$ 70,750		
(104)(105)(108)(109)(110)	RT 4 widening, Ylig bridge to Pago Bay	19,000	19,000	\$ 1,760,000	\$ 2,688,500		
GU-NH-007A(001)	RT 7A, 3R Project	3,400	3,400	\$ 598,400	\$ 481,100		
GU-NH-010A(001)	Rt 10A	10,000	10,000	\$ 704,000	\$ 1,415,000		
GU-NH-0014 (001)	Rt14	6,300	6,300	\$ 1,108,800	\$ 891,450		
GU-NH-0015 (105)	Rt 15	60,000	1,000	\$ 176,000	\$ 7,782,500		
GU-NH-0017(102)	Rt 17 (Rt 4 to Rt 4A)	12,800	4,000	\$ 704,000	\$ 1,811,200		
GU-NH-0028 (001)	Rt 28	21,500	7,000	\$ 1,232,000	\$ 2,830,000		
GU-NH-1000(021)	Ukudu School Traffic Signal	1,600	1,000	\$ 176,000	\$ 141,500		
GU-NH-1000(022)	Adecao School Traffic Signal	1,600	1,000	\$ 176,000	\$ 141,500		
GU-NH-0027(004)	Rt 27	5,500	5,500	\$ 968,000	\$ 778,250		
GU-NH-0033 (001)	Rt 33 (Roy T Damian street)	10,000	5,000	\$ 880,000	\$ 707,500		
GU-NH-001P (002)	Tiyan Parkway Airport area	12,500	12,500	\$ 2,200,000	\$ 1,768,750		
GO-ER-006A(102)	Rt 6A	4,500	4,500	\$ 792,000	\$ 636,750		
GU-ER-0004 (013)	Rt 4 Toqcha river to Ipan park	2,500	2,500	\$ 353,750			
GU-NH-0006 (011)	Masso River Bridge Restoration	200	200			89,000	
GU-DAR-001(014)	Agana Bridges	200	200			89,000	
GU-NH-NBIS(003)	Bile Bridge replacement	200	200			89,000	
GU-NH-NBIS(004)	Pigua Bridge replacement	200	200			89,000	
GU-NH-0002(107)	Taleyfak Bridge replacement	200	200			89,000	
GU-NH-0004(011)	Ylig Bridge replacement	200	200			89,000	
GU-NH-0004(015)	Talofolo and Yogcha Bridge replacement	200	200			89,000	
GO-ER-0004(114)	Rt 4 Ajlayan Bridge Merizo	200	200			89,000	
GO-ER-0004(113)	Rt 4 Aglayan Bridge	200	200			89,000	
GO-ER-22(013)	Rt 4 Menzo Bridge	200	200			89,000	
		80,200	180,850	\$ 14,115,200	\$ 25,307,275	890,000	

Estimated cost for materials and construction \$ 40,312,475  
Average Design cost @ 10% estimated construction \$ 4,031,248  
Contingency for construction @ 10% \$ 4,031,248  
**Grand Total \$ 48,374,970**



Construction Cost Estimates for Water and Sewer Utility Relocation

**Hypothetical bridge Improvement Project**

1) bridge being widened and stretched

**Hypothetical conditions of utilities within the roadway.**

1) 10" diameter PVC C900 water main runs along bridge side.

Water line relocation

Item No.	Description	Unit	Qty	Unit Price	Total
1	Install new 10" diameter PVC C900 waterline complete in place	LF	200	\$ 175	\$ 35,000
2	10" flexibile joint asembly	Ea	1	\$ 4,000	\$ 4,000
3	structural steel support/hangers for new pipe	LF	200	\$ 250	\$ 50,000
				TOTAL=	<b>\$ 89,000</b>

Summary:

Under the hypotheical scenerio it would cost an estimated \$445 per linear foot to relocate a water main

Construction Cost Estimates for Water and Sewer Utility Relocation

**Hypothetical 1 Mile Roadway Improvement Project**

- 1) Existing 2 lane main roadway to be expanded to 4 lanes.
- 2) Due to drainage improvement plans both water and gravity sewer mains need to be relocated.

**Hypothetical conditions of utilities within the roadway.**

- 1) 10" diameter PVC C900 water main runs along roadway and has 3' of cover.
- 2) There are 15 each 8" diameter water lateral mains within the 1 mile stretch of roadway.
- 3) 12" diameter gravity sewer main runs along roadway and has average 6' depth of cover.
- 4) There are 18 sewer manholes along roadway.
- 5) At each manhole there is at least 1 sewer lateral 8" in diameter
- 6) There are 30 each water meters within 1 mile stretch requiring relocation.

**Water line relocation**

Item No.	Description	Unit	Qty	Unit Price	Total
1	Install new 10" diameter PVC C900 waterline complete in place 3' cover, bedding sand, flowable fill	LF	5280	\$ 120	\$ 633,600
2	10" Isolation Gate Valves installed completed with valve cover along 10" diameter main	Ea	5	\$ 2,000	\$ 10,000
3	New 10x8 Tee with 8" gate valve	Ea	15	\$ 1,500	\$ 22,500
4	Install new 8" diameter PVC C900 waterline complete in place 3' cover, bedding sand, flowable fill	LF	600	\$ 95	\$ 57,000
5	Reconnect 8" water lateral main with 8" Transition couplings complete in-place	Ea	15	\$ 200	\$ 3,000
6	Relocation of water meters to edge of ROW	Ea	30	\$ 700	\$ 21,000
<b>TOTAL=</b>					<b>\$ 747,100</b>

141.50

**Sewer line relocation**

Item No.	Description	Unit	Qty	Unit Price	Total
1	Install new 12" diameter gravity sewer pipe, depth 0'-5' cover, bedding sand, flowable fill.	LF	2640	\$ 140	\$ 369,600
2	Install new 12" diameter gravity sewer pipe, depth 5'-10' cover, bedding sand, flowable fill.	LF	2640	\$ 165	\$ 435,600
3	Install manhole complete in place	Ea	18	\$ 5,000	\$ 90,000
4	Reconnect 8" sewer lateral main with 8" Transition couplings complete in-place	Ea	18	\$ 250	\$ 4,500
5	Reconnect 6" sewer service lateral	Ea	30	\$ 1,000	\$ 30,000
<b>TOTAL=</b>					<b>\$ 929,700</b>

176.08

**Grand Total \$ 1,676,800**

**Summary:**

Under the hypothetical scenerio it would cost an estimated \$141.50 per linear foot to relocate a water main, and \$176 per linear foot to relocate a gravity sewer main.

		Approximate length of roadway	sewer	water	Unit cost sewer	Unit cost water	Unit cost bridge	Comments
GU-DAR-001(125)	Rt 1/Rt3 Inter Improv	-	-	-	\$ 176	\$ 142	\$ 445	
GU-DAR-011(008)	RT 1/RT 11 Inter Improv	-	-	-	\$ -	\$ -	\$ -	No water or sewer infrastructure
GU-DAR-0003(105)	Rt 3 (Rt 28 to Chin Kareta	1,600	1,200	550	\$ 211,200	\$ 77,825		Sewer force main, no gravity
GU-DAR-CHLU (001)	Chin Lujuna (Rt 15-Rt1)	16,000	10,000	16,000	\$ 1,760,000	\$ 2,264,000		
		4,500	3,300	3,300	\$ 580,800	\$ 466,950		
GU-NH-0002								
(104)(105)(108)(109)(110)	Rt 2 reconstruction 3 culverts	500	500	500	\$ 88,000	\$ 70,750		
GU-NH-004(012)	Rt 4 widening, Ylig bridge to Pago Bay	19,000	10,000	19,000	\$ 1,760,000	\$ 2,688,500		
GU-NH-007A(001)	Rt 7A, 3R Project	3,400	3,400	3,400	\$ 598,400	\$ 481,100		
GU-NH-010A(001)	Rt 10A	10,000	4,000	10,000	\$ 704,000	\$ 1,415,000		
GU-NH-0014 (001)	Rt14	6,300	6,300	6,300	\$ 1,108,800	\$ 891,450		
GU-NH-0015 (105)	Rt 15	60,000	1,000	55,000	\$ 176,000	\$ 7,782,500		
GU-NH-0017(102)	Rt 17 (Rt 4 to Rt 4A)	12,800	4,000	12,800	\$ 704,000	\$ 1,811,200		
GU-NH-0028 (001)	Rt 28	21,500	7,000	20,000	\$ 1,232,000	\$ 2,830,000		
GU-NH-1000(021)	Ukudu School Traffic Signal	1,600	1,000	1,000	\$ 176,000	\$ 141,500		
GU-NH-1000(022)	Adecao School Traffic Signal	1,600	1,000	1,000	\$ 176,000	\$ 141,500		
GU-NH-0027(004)	Rt 27	5,500	5,500	5,500	\$ 968,000	\$ 778,250		
GU-NH-0033 (001)	Rt 33 (Roy T Damian street)	10,000	5,000	5,000	\$ 880,000	\$ 707,500		
GU-NH-00TP (002)	Tiyan Parkway Airport area	12,500	12,500	12,500	\$ 2,200,000	\$ 1,768,750		
					\$ -	\$ -		
GQ-ER-006A(102)	Rt 6A	4,500	4,500	4,500	\$ 792,000	\$ 636,750		
					\$ -	\$ -		
GU-ER-0004 (013)	Rt 4 Togcha river to Ipan park	2,500	-	2,500	\$ -	\$ 353,750		
					\$ -	\$ -		
GU-NH-0006 (011)	Masso River Bridge Restoration	200	-	200			89,000	
GU-DAR-001(014)	Agana Bridges	200	-	200			89,000	
GU-NH-NBIS(003)	Bile Bridge replacement	200	-	200			89,000	
GU-NH-NBIS(004)	Pigue Bridge replacement	200	-	200			89,000	
GU-NH-0002(107)	Taleyfak Bridge replacem	200	-	200			89,000	
GU-NH-0004(011)	Ylig Bridge replacem	200	-	200			89,000	
GU-NH-0004(015)	Talofoto and Yogcha Bridge replacem	200	-	200			89,000	
GQ-ER-0004(114)	Rt 4 Ajayan Bridge Merizo	200	-	200			89,000	
GQ-ER-0004(113)	Rt 4 Agfayan Bridge	200	-	200			89,000	
GQ-ER-22(013)	Rt 4 Merizo Bridge	200	-	200			89,000	
		80,200	180,850		\$ 14,115,200	\$ 25,307,275	890,000	

Estimated cost for materials and construction	\$	40,312,475
Average Design cost @ 10% estimated construction	\$	4,031,248
Contingency for construction @ 10%	\$	4,031,248
<b>Grand Total</b>	<b>\$</b>	<b>48,374,970</b>

Bond Size	\$	76,000,000
Interest rate		8%
Term (years)		30
Annual debt service	\$	6,080,000
Gross proceeds	\$	76,000,000
Less:		
3 yrs CAPI	\$	(18,240,000)
1 Yr Debt service	\$	(6,080,000)
Underwriter discount (2.5%)	\$	(1,900,000)
Othe Cost of Issuance (1.5%)	\$	(1,140,000)
Net Bond proceeds	\$	48,640,000
Required % rate increase		10.87%

April 20, 2011

**VIA HAND DELIVERY**

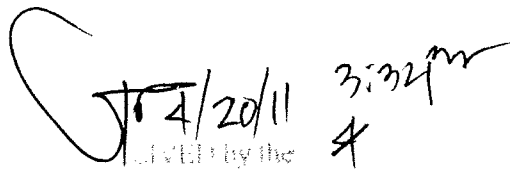
Honorable V. Anthony Ada  
Senator  
**I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN**  
Bridge Pointe Bldg.  
140 Aspinall Avenue, Suite 202  
Hagatna, Guam 96910

**RE: SUPPLEMENTAL TESTIMONY IN SUPPORT OF  
BILL NO. 28-31 AND BILL NO. 114-31  
REGARDING UTILITY RELOCATION EXPENSES**

Dear Senator Ada:

This letter is jointly submitted by the Guam Waterworks Authority (“GWA”) and Guam Cablevision LLC (“MCV”) to supplement its written testimony submitted on April 8, 2011 at the public hearing regarding Bill No. 28-31 – “An Act to Repeal and Reenact Section 53101, Amend Sections 53103 and 53104 and to Add a New Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated Relative to Permitted Utility Encroachments” (“Bill 28-31”) and Bill No. 114-31 – “An Act to Add New Sections 54106 and 54107 to Chapter 54 of 5 GCA Relative to Allocating Federal Funds for Mitigation and Utilities Relocation Costs.” (“Bill 114-31”) (Bill 28-31 and Bill 114-31 are sometimes referred to collectively herein as the “Bills”).

This letter responds to the issues raised in the written and oral testimony of the Department of Public Works (“DPW”) at the public hearing regarding the Bills. We have also included proposed language to modify Bill 28-31 to address certain issues raised by DPW.

  
4/20/11 3:32pm  
\*  
DELIVERED by the  
Office of Senator  
Vernon C. Ada

**1. *The Bills will not Mandate that Federal or Local Government Funds Cover the Costs of Utility Betterments.***

As DPW acknowledged in its written testimony regarding Bill 114, federal law clearly provides that highway funds distributed by the Federal Highway Administration (“FHWA”) may not be used to cover the costs of infrastructure betterments. MCV and GWA agree and have never taken the position that DPW should pay local utilities for improvements to their facilities or infrastructure, even if such improvements are initiated at the time of a relocation forced by road construction undertaken by DPW.

Although the Bills make clear that utilities shall only be paid for *relocation* costs, additional language specifically excluding betterments may address the concerns raised by DPW. A new subsection (f) may be added to § 53101 to define “betterment” as “any upgrade of the utility facility being relocated that is not attributable to a highway construction project and is made solely for the benefit of and at the election of the utility.” The last sentence of § 53109 may also be revised to provide: “All costs of betterments and relocate all non-utility private infrastructure shall be paid by the owner of such infrastructure.”

**2. *The Provisions of Bill 28-31 Regarding Revocability of Permits Do Not Constitute an Illegal Restraint on the Sovereignty of the Government of Guam***

DPW has raised concerns about the revision to 5 G.C.A. § 53103 which makes highway encroachment permits revocable “for cause” only, asserting that such language is illegal and violates the Organic Act and the U.S. Constitution because an applicant for a permit issued by DPW does not have any constitutional right to obtain or keep such permits. Although MCV and GWA recognize that the permits issued by DPW are a privilege granted to utilities and not a statutory or constitutional right, Guam law should set forth some minimum requirements regarding notice and revocation of such permits, rather than allow DPW to have the unbounded discretion to revoke permits without meaningful notice to the affected utility.

The highway encroachment permits are essential to the operations of local utilities which service local residents and businesses. Moreover, the infrastructure that is installed pursuant to such permits collectively totals hundreds of millions of dollars. Bill 28-31 merely

requires DPW to give 30 days' written notice prior to revoking a permit and provides that a permit may only be revoked "for cause." The Bill does not threaten the sovereignty of the Government of Guam; it simply requires DPW to assert some reasonable basis for revocation of a permit at give a permittee at least 30 days to make arrangements for removal or relocation of its facilities.

**3. *The Definitions Contained in Bill 28-31 will Not Limit the Permitting Authority of the Department of Public Works***

DPW expressed its concerns that the revised definitions set forth in Bill 28-31 will allow utilities to circumvent the permit process currently administered by DPW for local utilities who maintain their equipment and facilities Guam's highways. Although Bill 28-31 unequivocally requires utilities to obtain permits, the concerns of DPW may be addressed by modifying the permit provision set forth in § 53102. Specifically, rather than continuing to categorize utility infrastructure as an "encroachment" for permitting purposes, a new subsection should be added to § 53102 to allow DPW to issue utility right of way permits. We recommend that a new subsection (5) be added to § 53102(a) which provides: "Place in, under or over any highway, and perform routine maintenance and emergency repairs on utility equipment and facilities."

**4. *The Changes to Local Law Proposed in Bill 114-31 Will Not Conflict with Federal Law***

In its written testimony regarding Bill 114, DPW states: "Generally, the FHWA will reimburse utility relocation costs according to what is provided in Guam law. Any reimbursement, however, is subject to the concurrence and approval of the FHWA." MCV and GWA agree that the FHWA has discretion to approve the payment of utility relocation costs. This discretion, however, should not and does not hinder the Legislature's ability to pass the Bills, which would give the utilities access to federal funds.

As explained in our prior joint written testimony, there is a clear basis in federal law for the allocation of funding to the states and territories, including Guam, to cover the costs of relocating utility facilities when necessitated by road improvements if state law expressly provides for a waiver or advance payment for such costs. 23 C.F.R. § 645.101 et seq. Therefore,

the proposed amendments to Guam law contained in the Bills will not conflict with federal law – they will simply make the revisions that are necessary to allow the federal government to pay relocation costs when DPW has initiated road construction that affects local utilities.

It is well-established that the FHWA permits its funds to be used to finance forced utility relocations. DPW cautions the Legislature that the FHWA may decline to provide federal funds for utility relocation costs if the costs will “drain highway funds away from a project” or “if the resulting impact on the public will be prejudicial.” This may, in fact, be true. Notwithstanding the possibility that the FHWA may decline or disapprove the use of federal funds for certain local highway construction projects, Guam law should be amended to allow our local utilities to benefit from the use of such federal funds when approved by the FHWA. The alternative is to pass on the total costs of such relocations to local rate payers and subscribers based purely on the speculation that the FHWA will not approve the funding even though it does so in numerous other jurisdictions. As discussed more fully in our prior joint written testimony, it is a much more prudent public policy to use government funds to pay for these forced network relocations rather than burden local consumers and rate payers with an avoidable expense.

**5. *Bill 28 Should Protect All Affected Parties' Interests by Requiring Coordination before Commencement of a Highway Construction Project***

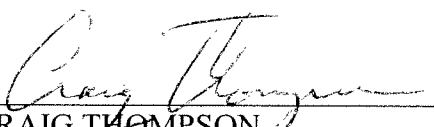
Finally, in an effort to minimize costs to all local utilities and the Government of Guam, we recommend that a new language be added to § 53103 to require that DPW and all affected utilities coordinate regarding forced relocation plans and calculation of relocation costs. At the end of § 53103, a new sentence should be added which reads: “The Department shall coordinate with all affected utilities when planning highway construction and shall include the costs of any utility relocations when requesting local government and/or federal funds in connection with such construction.”

As discussed at the public hearing on the Bills, the long-term plan among the utilities is to establish a consortium to facilitate coordination between DPW and the utilities affected by highway construction projects. The revision proposed above evidences this

commitment and provides an enforceable statutory mandate that requires all parties to participate and coordinate to effectively plan and execute highway construction projects.

MCV and GWA look forward to working with our oversight Chair, committee members and other interested parties in crafting a final product that best meets the needs of the people of Guam. If you have any questions regarding the issues raised in this letter, or if you would like us to submit any additional proposed language to carry out the changes to Bill 28-31 discussed herein, please do not hesitate to contact the signatories below. Thank you very much for your consideration and attention to this matter.

**GUAM CABLEVISION LLC**

By:   
CRAIG THOMPSON  
President and Chief Executive Officer

**GUAM WATERWORKS AUTHORITY**

For:   
By: JOHN BENAVENTE  
General Manager

cc: Honorable Edward B. Calvo, Governor of Guam  
Members, Committee on Utilities, Transportation, Public Works  
and Veterans Affairs  
All Senators, Mina' Trentai Unu Na Liheslaturan Guåhan





# COMMITTEE ON RULES

*I Mina'trentai Unu na Libeslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

MAJORITY  
MEMBERS:

Speaker  
Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

Senator  
Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

MINORITY  
MEMBERS:

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

April 19, 2011

Memorandum

To: Pat C. Santos  
Clerk of the Legislature

From: Senator Rory J. Respicio  
Chairperson, Committee on Rules

Subject: Fiscal Notes

*Hafa Adai!*

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

- Bill Nos.: 105-31 (COR)
- 114-31 (COR)
- 125-31 (LS)
- 126-31 (LS)
- 128-31 (LS)
- 129-31 (LS)
- 130-31 (LS)
- 134-31 (LS)
- 135-31 (LS)
- 136-31 (LS)
- 142-31 (COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

*Si Yu'os ma'åse'!*

2011 APR 19 PM 12: 57  
RJR

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

**EDDIE BAZA CALVO**  
GOVERNOR

**RAY TENORIO**  
LIEUTENANT GOVERNOR

**BENITA A. MANGLONA**  
DIRECTOR

**STEPHEN J. GUERRERO**  
DEPUTY DIRECTOR

**APR 19 2011**

Senator Rory J. Respicio  
Chairperson, Committee on Rules  
I Mina`treintai Unu na Liheslaturan Guåhan  
The 31<sup>st</sup> Guam Legislature  
155 Hesler Place  
Hagåtña, Guam 96932

*Hafa Adai* Senator Respicio:

Transmitted herewith are Fiscal Notes on the following Bill Nos.: **105-31(COR)**, **114-31(COR)**, **142-31(COR)** and Fiscal Note Waiver on the following Bill Nos.: **126-31(LS)** and **130-31(COR)**.

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

Handwritten signature of Benita A. Manglona in black ink.  
BENITA A. MANGLONA  
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 114-31 (COR)**

**AN ACT TO ADD A NEW §§54106 AND 54107 TO CHAPTER 54 OF 5 GCA RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS.**

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Public Works	Dept./Agency Head: Joanne M. S. Brown
Department's General Fund (GF) appropriation(s) to date:	8,781,513
Department's Other Fund (Specify) appropriation(s) to date: DPW Building & Design Fund \$562,012; Solid Waste Operations Fund \$6,446,626; Territorial Highway Fund \$8,564,123; Unreserved Balance of the Limited Obligation Highway Bonds, 1985 Series A (as authorized in P.L. 19-2) \$2,254,413; Balances of the Appropriations contained in 1513 of Article 5, Chapter 1 of Title 5 GCA \$1,050,000.	18,877,174
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$27,658,687</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance		\$0	\$0
FY 2011 Adopted Revenues	\$0	\$0	\$0
FY 2011 Appro. (P.L. 30-196 thru P.L.20- 239)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2011 (if applicable)	FY 2012	FY 2013	FY 2014	FY 2015
General Fund						
(Specify Special Fund) Guam Highway Fund						
<b>Total</b>	1/	1/	1/	1/	1/	1/

- Does the bill contain "revenue generating" provisions? / / Yes /X/ No  
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No  
If no, what is the additional amount required? \$ /X/ N/A
- Does the Bill establish a new program/agency? / / Yes /X/ No  
If yes, will the program duplicate existing programs/agencies? / / N/A / / Yes /X/ No  
Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes / / No  
/ / Requested agency comments not received by due date / / Other: \_\_\_\_\_

Analyst: AM Date: 4/15/11 Director: Benita Manglona Date: 4/15/11  
 Benita A. Manglona, Director

**Footnotes:**

- The Bill has a potential for additional funding impact, however in its present form that impact cannot be determined at this time. Such impact concerns business/residential/traffic mitigation costs and utilities relocation costs in connection with highway/road projects, to be apportioned or allocated based on approved Federally Funded Highway Projects.



# COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

2011 MAR 23 AM 10:37  
MUC

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

March 23, 2011

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

## MEMORANDUM

### MAJORITY MEMBERS:

Speaker  
Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

To: **Pat Santos**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

From: **Senator Judith P. Guthertz, DPA**  
*Acting Chairperson, Committee on Rules*

Subject: **Referral of Bill Nos. 114-31 (COR) through 119-31 (COR)**

Senator  
Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

As Acting Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 114-31 (COR) through 119-31 (COR).

Senator  
Thomas C. Ada

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

Should you have any questions, please feel free to contact our office at 472-7679.

### MINORITY MEMBERS:

*Si Yu'os ma'åse!*

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

(4) Attachments

*I Mina'Trentai Unu Na Liheslaturan Guåhan*

**Bill Log Sheet**

**March 21, 2011**

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
114-31 (COR)	V. A. Ada, C. M. Duenas, F. F. Blas	AN ACT ADD A NEW §§54106 AND 54107 TO CHAPTER 54 OF 5GCA RELATIVE TO ALLOCATING FEDERAL FUNDS FOR MITIGATION AND UTILITIES RELOCATION COSTS.	3/21/11 11:04 a.m.	3/23/11		Committee on Utilities, Transportation Public Works and Veterans Affairs.			
115 -31 (COR)	C. M. Dueñas	AN ACT TO ADD A NEW ITEM (h) TO § 75106 OF CHAPTER , TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING TWO (2) APPRAISALS OF ANY PROPERTY TO BE LEASED.	3/21/11 11:13 a.m.	3/23/11		Committee on Appropriation, Taxation, Public Debt, Banking, Insurance, Retirement and Land			



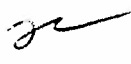
## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guahan

March 31, 2011

### MEMORANDUM

To: All Senators

Fr: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: April 8, 2011**

Please be advised that the Committee on Public Works, Transportation, Utilities and Veterans Affairs is holding a public hearing on **April 8, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*. The agenda is as follows:

#### **9:00 am – 12:00 pm**

**Bill 23-31 (COR):** An act to *expedite* the repair of southern bridges to allow for reasonable transportation to and from southern villages. **(Sponsor: M.S. Taijeron)**

**Bill 28-31 (COR):** An act to repeal and reenact Section 53101, amend Section 53103 and 53104 and to add a new Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated relative to permitted utility encroachments. **(Sponsor: V.A. Ada)**

**Bill 114-31 (COR):** An act to add a new §§54106 and 54107 to Chapter 54 of 5GCA relative to allocating federal funds for mitigation and utilities relocation costs. **(Sponsors: V.A. Ada / C. Duenas / F.F. Blas, Jr.)**

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 13, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

---

## First Notice: Public Hearing - April 8, 9am - 12pm

---

Nicole Santos <nsantos@senatorada.org>

Thu, Mar 31, 2011 at 5:30 PM

To: phnotice@guamlegislature.org

Hafa adai Senators,

Please see attached memo from Senator Tom Ada regarding public hearing notice for **Bills 23-31, 28-31 and 114-31** to be heard on **April 8, 2011** from **9am - 12pm**.

Should you have any questions please don't hesitate to call our office at 473-3301.

Best regards,  
Nicole

--

Nicole Santos  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
I Mina'trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature  
671-473-3301

---

 **Public Hearing - 1st Notc - Apr 8 - senators.pdf**  
647K

---

**Listserv: [phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)**

[aline4families@gmail.com](mailto:aline4families@gmail.com)  
[audrey@judiwonpat.com](mailto:audrey@judiwonpat.com)  
[berleneranae@hotmail.com](mailto:berleneranae@hotmail.com)  
[bruce.lloyd.media@gmail.com](mailto:bruce.lloyd.media@gmail.com)  
[carlo@tinamunabarnes.com](mailto:carlo@tinamunabarnes.com)  
[chechsantos@gmail.com](mailto:chechsantos@gmail.com)  
[chelsa@tinamunabarnes.com](mailto:chelsa@tinamunabarnes.com)  
[cherbert.senatorrodriguez@gmail.com](mailto:cherbert.senatorrodriguez@gmail.com)  
[cipo@guamlegislature.org](mailto:cipo@guamlegislature.org)  
[clerks@guamlegislature.org](mailto:clerks@guamlegislature.org)  
[cor@guamlegislature.org](mailto:cor@guamlegislature.org)  
[cyrus@senatorada.org](mailto:cyrus@senatorada.org)  
[doc.wyttenbachsantos@gmail.com](mailto:doc.wyttenbachsantos@gmail.com)  
[duenasenator@gmail.com](mailto:duenasenator@gmail.com)  
[edleonguerrero@gmail.com](mailto:edleonguerrero@gmail.com)  
[edwardglee671@yahoo.com](mailto:edwardglee671@yahoo.com)  
[elaine@tinamunabarnes.com](mailto:elaine@tinamunabarnes.com)  
[etajalle@guamlegislature.org](mailto:etajalle@guamlegislature.org)  
[evelyn4families@gmail.com](mailto:evelyn4families@gmail.com)  
[fbtorres@judiwonpat.com](mailto:fbtorres@judiwonpat.com)  
[frank.blasjr@gmail.com](mailto:frank.blasjr@gmail.com)  
[gavin@tinamunabarnes.com](mailto:gavin@tinamunabarnes.com)  
[guamnativesun@yahoo.com](mailto:guamnativesun@yahoo.com)  
[jamespcastro@gmail.com](mailto:jamespcastro@gmail.com)  
[jane@tinamunabarnes.com](mailto:jane@tinamunabarnes.com)  
[jcamacho@senatorada.org](mailto:jcamacho@senatorada.org)  
[imesngon.senatorrodriguez@gmail.com](mailto:imesngon.senatorrodriguez@gmail.com)  
[joshua.tenorio@senatorbicruz.com](mailto:joshua.tenorio@senatorbicruz.com)  
[judiguthertz@gmail.com](mailto:judiguthertz@gmail.com)  
[laurielisla@gmail.com](mailto:laurielisla@gmail.com)  
[leonguerrero.angela@gmail.com](mailto:leonguerrero.angela@gmail.com)  
[leslie.g@senatormabini.com](mailto:leslie.g@senatormabini.com)  
[lou4families@gmail.com](mailto:lou4families@gmail.com)  
[louise\\_atalig@yahoo.com](mailto:louise_atalig@yahoo.com)  
[markaflague@gmail.com](mailto:markaflague@gmail.com)  
[marksayama@gmail.com](mailto:marksayama@gmail.com)  
[maryfejeran@gmail.com](mailto:maryfejeran@gmail.com)  
[mis@guamlegislature.org](mailto:mis@guamlegislature.org)  
[mtorres.senatorrodriguez@gmail.com](mailto:mtorres.senatorrodriguez@gmail.com)  
[nsantos@senatorada.org](mailto:nsantos@senatorada.org)  
[office@senatorada.org](mailto:office@senatorada.org)  
[oliviampalacios@gmail.com](mailto:oliviampalacios@gmail.com)  
[peterlg@gmail.com](mailto:peterlg@gmail.com)  
[pitcruz@yahoo.com](mailto:pitcruz@yahoo.com)  
[rhea@tinamunabarnes.com](mailto:rhea@tinamunabarnes.com)  
[rob.tupaz@gmail.com](mailto:rob.tupaz@gmail.com)  
[roryforguam@gmail.com](mailto:roryforguam@gmail.com)  
[sem@guamlegislature.org](mailto:sem@guamlegislature.org)  
[senabpalacios@gmail.com](mailto:senabpalacios@gmail.com)  
[senator@senatorbicruz.com](mailto:senator@senatorbicruz.com)  
[senator@tinamunabarnes.com](mailto:senator@tinamunabarnes.com)  
[senatorrodriguez@gmail.com](mailto:senatorrodriguez@gmail.com)  
[senatormana@gmail.com](mailto:senatormana@gmail.com)  
[senatorsam@senatormabini.com](mailto:senatorsam@senatormabini.com)  
[senatortonyada@guamlegislature.org](mailto:senatortonyada@guamlegislature.org)  
[senbenp@guam.net](mailto:senbenp@guam.net)  
[sgtarms@guamlegislature.org](mailto:sgtarms@guamlegislature.org)  
[speaker@judiwonpat.com](mailto:speaker@judiwonpat.com)  
[steve@judiwonpat.com](mailto:steve@judiwonpat.com)  
[tanya4families@gmail.com](mailto:tanya4families@gmail.com)  
[tom@senatorada.org](mailto:tom@senatorada.org)  
[tterlaje@guam.net](mailto:tterlaje@guam.net)





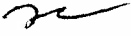
## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

March 31, 2011

### MEMORANDUM

To: All Media

Fr: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: April 8, 2011**

Please be advised that the Committee on Public Works, Transportation, Utilities and Veterans Affairs is holding a public hearing on **April 8, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*. The agenda is as follows:

#### **9:00 am – 12:00 pm**

**Bill 23-31 (COR):** An act to *expedite* the repair of southern bridges to allow for reasonable transportation to and from southern villages. **(Sponsor: M.S. Taijeron)**

**Bill 28-31 (COR):** An act to repeal and reenact Section 53101, amend Section 53103 and 53104 and to add a new Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated relative to permitted utility encroachments. **(Sponsor: V.A. Ada)**

**Bill 114-31 (COR):** An act to add a new §§54106 and 54107 to Chapter 54 of 5GCA relative to allocating federal funds for mitigation and utilities relocation costs. **(Sponsors: V.A. Ada / C. Duenas / F.F. Blas, Jr.)**

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 13, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

---

## First Notice: Public Hearing - April 8, 9am - 12pm

---

Nicole Santos <nsantos@senatorada.org>

Thu, Mar 31, 2011 at 5:30 PM

To: media@senatorada.org

Cc: Cyrus Luhr <cyrus@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai,

Please see attached memo (pdf & word file) from Senator Tom Ada regarding public hearing notice for **Bills 23-31, 28-31 and 114-31** to be heard on **April 8, 2011** from **9am - 12pm**.

Should you have any questions please don't hesitate to call our office at 473-3301.

Best regards,  
Nicole

--

Nicole Santos  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
I Mina'trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature  
671-473-3301

---

### 2 attachments

 **Public Hearing - 1st Notc - Apr 8 - media.pdf**  
666K

 **Public Hearing - 1st Notc - Apr 8 - media.doc**  
194K

---

[Search accounts](#) [Search Help Center](#)

[Dashboard](#) | [Organization & users](#) | [Groups](#) | [Domain settings](#) | [Advanced tools](#) | [Setup](#)  
[Support](#) | [Service settings](#)

[Back to Groups](#)

**Media media@senatorrada.org**

Email addresses of all media contacts for senatorrada.org

[Change group info](#) [Delete group](#)

[Members](#) [Roles and permissions](#)

[Add new members](#)

FOR HELP, VISIT [HELP](#) AND [CONTACT US](#)

[Add](#) as [Member](#)

[Remove members](#) [More actions](#)

1 - 28

Name	Email address	Role
<a href="#">AMASARA,WHITTAKER,GRACE@SENATORRADA.ORG</a>		Owner
<a href="#">bmkeliman@guampdn.com</a>	bmkeliman@guampdn.com	Member
<a href="#">breakfastshowk57@gmail.com</a>	breakfastshowk57@gmail.com	Member
<a href="#">clyn@spbgiam.com</a>	clyn@spbgiam.com	Member
<a href="#">dmgeorge@guampdn.com</a>	dmgeorge@guampdn.com	Member
<a href="#">diamondong@guampdn.com</a>	diamondong@guampdn.com	Member
<a href="#">editor@mvguam.com</a>	editor@mvguam.com	Member
<a href="#">gdumat-ol@guampdn.com</a>	gdumat-ol@guampdn.com	Member
<a href="#">hotlips@kuam.com</a>	hotlips@kuam.com	Member
<a href="#">jac.cherry@gmail.com</a>	jac.cherry@gmail.com	Member
<a href="#">janela@mvguam.com</a>	janela@mvguam.com	Member
<a href="#">kevin@spbgiam.com</a>	kevin@spbgiam.com	Member
<a href="#">limatthews@guampdn.com</a>	limatthews@guampdn.com	Member
<a href="#">michele@kuam.com</a>	michele@kuam.com	Member
<a href="#">mindy@kuam.com</a>	mindy@kuam.com	Member

<a href="#">news@guampdn.com</a>	news@guampdn.com	Member
<a href="#">news@spbgiam.com</a>	news@spbgiam.com	Member
<a href="#">news@k57.com</a>	news@k57.com	Member
<a href="#">nick.delgado@kuam.com</a>	nick.delgado@kuam.com	Member
<a href="#">rgibson@k57.com</a>	rgibson@k57.com	Member
<a href="#">sabina@kuam.com</a>	sabina@kuam.com	Member
<a href="#">scoop@guamnewswatch.com</a>	scoop@guamnewswatch.com	Member
<a href="#">thebigshow@k57.com</a>	thebigshow@k57.com	Member
<a href="#">thebigshow@spbgiam.com</a>	thebigshow@spbgiam.com	Member
<a href="#">therese.hart.writer@gmail.com</a>	therese.hart.writer@gmail.com	Member
<a href="#">therese@mvguam.com</a>	therese@mvguam.com	Member
<a href="#">tina@marianasmedia.com</a>	tina@marianasmedia.com	Member
<a href="#">zita@mvguam.com</a>	zita@mvguam.com	Member

[Remove members](#) [More actions](#)

1 - 28




## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

March 31, 2011

### MEMORANDUM

To: All Stakeholders

Fr: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: April 8, 2011**

Please be advised that the Committee on Public Works, Transportation, Utilities and Veterans Affairs is holding a public hearing on **April 8, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*. The agenda is as follows:

#### **9:00 am – 12:00 pm**

**Bill 23-31 (COR):** An act to *expedite* the repair of southern bridges to allow for reasonable transportation to and from southern villages. **(Sponsor: M.S. Taijeron)**

**Bill 28-31 (COR):** An act to repeal and reenact Section 53101, amend Section 53103 and 53104 and to add a new Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated relative to permitted utility encroachments. **(Sponsor: V.A. Ada)**

**Bill 114-31 (COR):** An act to add a new §§54106 and 54107 to Chapter 54 of 5GCA relative to allocating federal funds for mitigation and utilities relocation costs. **(Sponsors: V.A. Ada / C. Duenas / F.F. Blas, Jr.)**

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 13, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



---

## First Notice: Public Hearing - April 8, 9am - 12pm

---

Nicole Santos <nsantos@senatorada.org>

Thu, Mar 31, 2011 at 5:30 PM

To: Joanne Brown <joanne.brown@dpw.guam.gov>, Carl Dominguez <carl.dominguez@dpw.guam.gov>, "Joaquin 'Kin' Blaz Jr." <joaquin.blaz@dpw.guam.gov>, "Richelle S. Takara P.E." <Richelle.TAKARA@dot.gov>, Antoinette Cruz <antoinette.cruz@dpw.guam.gov>, mcogadmin@teleguam.net, Melissa Savares <msavares@guamcell.net>, Charlie Onedera <staff03@guamchamber.com.gu>, chairman@guamchamber.com.gu, "John M. Benavente" <gpagm@ite.net>, Lou Palomo <lpalomo@guampuc.com>, simon sanchez <gdcmgr@ite.net>, Lou Sablan <lsablan@gpagwa.com>, law@guamattorneygeneral.com, Kin Flores <jflores@gpagwa.com>, Sam Taylor <staylor@ite.net>, Graham Botha <gbotha@gpagwa.com>, Ivan Quinata <ivan.quinata@guamepa.net>, Sandra Miller <sandra.miller@ag.guam.gov>, Clifford Guzman <cguzman@galaidegroup.com>, Paul Wolf <wolf@pbworld.com>, Thomas Cruz <thomas@guamwaterworks.org>, Craig Thompson <cthompson@mcvguam.com>, bonnie@mcvguam.com, Larry Perez <larry@gta.net>, Terence Brooks <tmb@guamlaw.net>, sblas@gpagwa.com, Heidi Ballendorf <heidi@guamwaterworks.org>, mcamacho@gpagwa.com, roushm@guamwaterworks.net, mike.watanabe@ptihq.com, psantos@gta.net, marvin.matsuda@fe.navy.mil, john.devenecia@fe.navy.mil, danielo.tuazon@fe.navy.mil, clarence.lagutang@fe.navy.mil, sonny.rasay@navy.mil, stephen.barker@navy.mil, jcruikshank@mcvguam.com, chris.via@navy.mil, rcortez@ssfm.com, rodney.palacios@fe.navy.mil, keith.hayashi@navy.mil, jwu@docomopacific.net, mike.cepeda@docomopacific.net, titania.cross@usmc.mil  
Cc: Tom Ada <tom@senatorada.org>, Cyrus Luhr <cyrus@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai,

Please see attached memo from Senator Tom Ada regarding public hearing notice for **Bills 23-31, 28-31 and 114-31** to be heard on **April 8, 2011** from **9am - 12pm**.

[Quoted text hidden]



Public Hearing - 1st Notc - Apr 8 -stakeholders.pdf

674K



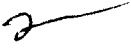
## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

April 6, 2011

### MEMORANDUM

To: All Senators

Fr: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: April 8, 2011**

Please be advised that the Committee on Public Works, Transportation, Utilities and Veterans Affairs is holding a public hearing on **April 8, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*. The agenda is as follows:

#### 9:00 am – 12:00 pm

**Bill 23-31 (COR):** An act to *expedite* the repair of southern bridges to allow for reasonable transportation to and from southern villages. **(Sponsor: M.S. Taijeron)**

**Bill 28-31 (COR):** An act to repeal and reenact Section 53101, amend Section 53103 and 53104 and to add a new Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated relative to permitted utility encroachments. **(Sponsor: V.A. Ada)**

**Bill 114-31 (COR):** An act to add a new §§54106 and 54107 to Chapter 54 of 5GCA relative to allocating federal funds for mitigation and utilities relocation costs. **(Sponsors: V.A. Ada / C. Duenas / F.F. Blas, Jr.)**

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 13, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

---

## Second Notice: Public Hearing - April 8, 9am - 12pm

---

Nicole Santos <nsantos@senatorada.org>

Wed, Apr 6, 2011 at 4:15 PM

To: phnotice@guamlegislature.org

Hafa adai Senators,

Please see attached memo from Senator Tom Ada regarding public hearing notice for **Bills 23-31, 28-31 and 114-31** to be heard on **April 8, 2011** from **9am - 12pm**.

Should you have any questions please don't hesitate to call our office at 473-3301.

Best regards,  
Nicole

--

Nicole Santos  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
I Mina'trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature  
671-473-3301



**Public Hearing - 2nd Notc - Apr 8 - senators.pdf**

660K

---



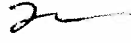
## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

April 6, 2011

### MEMORANDUM

To: All Media

Fr: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: April 8, 2011**

Please be advised that the Committee on Public Works, Transportation, Utilities and Veterans Affairs is holding a public hearing on **April 8, 2011**. This meeting will take place in the Public Hearing Room of *I Liheslatura*. The agenda is as follows:

#### **9:00 am – 12:00 pm**

**Bill 23-31 (COR):** An act to *expedite* the repair of southern bridges to allow for reasonable transportation to and from southern villages. **(Sponsor: M.S. Taijeron)**

**Bill 28-31 (COR):** An act to repeal and reenact Section 53101, amend Section 53103 and 53104 and to add a new Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated relative to permitted utility encroachments. **(Sponsor: V.A. Ada)**

**Bill 114-31 (COR):** An act to add a new §§54106 and 54107 to Chapter 54 of 5GCA relative to allocating federal funds for mitigation and utilities relocation costs. **(Sponsors: V.A. Ada / C. Duenas / F.F. Blas, Jr.)**

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 13, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.





Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

---

## Second Notice: Public Hearing - April 8, 9am - 12pm

---

Nicole Santos <nsantos@senatorada.org>

Wed, Apr 6, 2011 at 4:16 PM

To: media@senatorada.org

Cc: Cyrus Luhr <cyrus@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai,

Please see attached memo (pdf & word file) from Senator Tom Ada regarding public hearing notice for **Bills 23-31, 28-31 and 114-31** to be heard on **April 8, 2011 from 9am - 12pm**.

Should you have any questions please don't hesitate to call our office at 473-3301.

Best regards,  
Nicole

--

Nicole Santos  
Senior Policy Analyst  
Office of Senator Thomas C. Ada  
I Mina'trentai Unu Na Liheslaturan Guåhan - 31st Guam Legislature  
671-473-3301

---

### 2 attachments

 **Public Hearing - 2nd Notc - Apr 8 - media.pdf**  
681K

 **Public Hearing - 2nd Notc - Apr 8 - media.doc**  
195K

---




## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guahan

April 6, 2011

### MEMORANDUM

To: All Stakeholders

Fr: Senator Thomas C. Ada 

Subject: **Public Hearing Notice: April 8, 2011**

Please be advised that the Committee on Public Works, Transportation, Utilities and Veterans Affairs is holding a public hearing on **April 8, 2011**. This meeting will take place in the Public Hearing Room of *1 Liheslatura*. The agenda is as follows:

#### **9:00 am – 12:00 pm**

**Bill 23-31 (COR):** An act to *expedite* the repair of southern bridges to allow for reasonable transportation to and from southern villages. **(Sponsor: M.S. Taijeron)**

**Bill 28-31 (COR):** An act to repeal and reenact Section 53101, amend Section 53103 and 53104 and to add a new Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated relative to permitted utility encroachments. **(Sponsor: V.A. Ada)**

**Bill 114-31 (COR):** An act to add a new §§54106 and 54107 to Chapter 54 of 5GCA relative to allocating federal funds for mitigation and utilities relocation costs. **(Sponsors: V.A. Ada / C. Duenas / F.F. Blas, Jr.)**

Testimonies should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 13, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to Nicole Santos at 473-3301. Please feel free to contact our office at 473-3301 should you have any questions or concerns.



Senator Tom Ada

Nicole Santos <nsantos@senatorada.org>

---

## Second Notice: Public Hearing - April 8, 9am - 12pm

---

Nicole Santos <nsantos@senatorada.org>

Wed, Apr 6, 2011 at 4:16 PM

To: Joanne Brown <joanne.brown@dpw.guam.gov>, Carl Dominguez <carl.dominguez@dpw.guam.gov>, "Joaquin 'Kin' Blaz Jr." <joaquin.blaz@dpw.guam.gov>, "Richelle S. Takara P.E." <Richelle.TAKARA@dot.gov>, Antoinette Cruz <antoinette.cruz@dpw.guam.gov>, mcogadmin@teleguam.net, Melissa Savares <msavares@guamcell.net>, Charlie Onedera <staff03@guamchamber.com.gu>, chairman@guamchamber.com.gu, "John M. Benavente" <gpagm@ite.net>, Lou Palomo <lpalomo@guampuc.com>, simon sanchez <gdcmgr@ite.net>, Lou Sablan <lsablan@gpagwa.com>, law@guamattorneygeneral.com, Kin Flores <jflores@gpagwa.com>, Sam Taylor <staylor@ite.net>, Graham Botha <gbotha@gpagwa.com>, Ivan Quinata <ivan.quinata@epa.guam.gov>, Sandra Miller <sandra.miller@ag.guam.gov>, Clifford Guzman <cguzman@galaidegroup.com>, Paul Wolf <wolf@pbworld.com>, Thomas Cruz <thomas@guamwaterworks.org>, Craig Thompson <cthompson@mcvguam.com>, bonnie@mcvguam.com, Larry Perez <larry@gta.net>, Terence Brooks <tmb@guamlaw.net>, sbblas@gpagwa.com, Heidi Ballendorf <heidi@guamwaterworks.org>, mcamacho@gpagwa.com, roushm@guamwaterworks.net, mike.watanabe@ptihq.com, psantos@gta.net, marvin.matsuda@fe.navy.mil, john.devenecia@fe.navy.mil, danielo.tuazon@fe.navy.mil, clarence.lagutang@fe.navy.mil, sonny.rasay@navy.mil, stephen.barker@navy.mil, jcruikshank@mcvguam.com, chris.via@navy.mil, rcortez@ssfm.com, rodney.palacios@fe.navy.mil, keith.hayashi@navy.mil, jwu@docomopacific.net, mike.cepeda@docomopacific.net, titania.cross@usmc.mil  
Cc: Tom Ada <tom@senatorada.org>, Cyrus Luhr <cyrus@senatorada.org>, Jimmy Camacho <jcamacho@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa adai,

Please see attached memo from Senator Tom Ada regarding public hearing notice for **Bills 23-31, 28-31 and 114-31** to be heard on **April 8, 2011** from **9am - 12pm**.

[Quoted text hidden]



Public Hearing - 2nd Notc - Apr 8 - stakeholders.pdf

670K

---



## **Senator Thomas C. Ada**

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
31<sup>st</sup> Guam Legislature • I Mina'trentai Unu Na Liheslaturan Guåhan

### **AGENDA**

#### **PUBLIC HEARING**

**Friday, April 8, 2011**

**Public Hearing Room, *I Liheslaturan Guåhan***

The agenda is as follows:

9:00 am

**Bill 23-31 (COR) – M.S. Taijeron**

An act to expedite the repair of southern bridges to allow for reasonable transportation to and from southern villages.

**Bill 28-31 (COR) – V.A. Ada**

An act to repeal and reenact Section 53101, amend Sections 53103, and 53104 and to add a new Section 53109 to Chapter 53 of Title 5 of the Guam Code Annotated relative to permitted utility encroachments.

**Bill 114-31 (COR) – V.A. Ada/C. Dueñas/F.F. Blas, Jr.**

An act to add a new §§54106 and 54107 to Chapter 54 of 5GCA relative to allocating federal funds for mitigation and utilities relocation costs.

Testimonies should be addressed to Senator Thomas C. Ada, and will be accepted via hand delivery to our office or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to [office@senatorada.org](mailto:office@senatorada.org), or via facsimile to (671) 473-3303 until April 20, 2011, 5:00 pm. Individuals requiring special accommodations, auxiliary aids, or services should submit their request to our office, c/o Nicole Santos. Copies of the agenda items may be found on Senator Tom Ada's website ([senatorada.org](http://senatorada.org)) and the official Guam Legislature website ([www.guamlegislature.com](http://www.guamlegislature.com)). Please feel free to contact our office at 473-3301 should you have any questions or concerns.

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2011 (FIRST) REGULAR SESSION

2011 MAR 21 11:11 AM  
HON. JUDGE

Bill No. 114-31 (cov)

Introduced by:

V. Anthony Ada  
C. Duenas  
F.F. Blas

**AN ACT ADD A NEW §§54106 AND 54107 TO CHAPTER  
54 OF 5GCA RELATIVE TO ALLOCATING FEDERAL  
FUNDS FOR MITIGATION AND UTILITIES  
RELOCATION COSTS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Section 54106 is *added* to Chapter 54 of 5GCA to read as  
3 follows:  
4

5 **“§54106. Federally Funded Highway Projects - Mitigation Expenses.** To the  
6 extent that business/residential/traffic mitigation costs are authorized or allowed by  
7 the grantor of federal funds for highway/road projects, the Department of Public  
8 Works *shall* allocate a sufficient portion of such federal funds for mitigation  
9 expenses related to such highway/road projects.”  
10

11 **Section 2.** A new Section 54107 is *added* to Chapter 54 of 5GCA to read as  
12 follows:  
13

14 **“§54107. Federally Funded Highway Projects – Utilities Relocation Expenses.**  
15 To the extent that utilities relocation costs are authorized or allowed by the grantor  
16 of federal funds for highway/road projects, the Department of Public Works *shall*  
17 allocate a sufficient portion of such federal funds for utilities relocation expenses  
18 related to such highway/road projects.”