

I MINA' BENTE NUEBI NA LIHESLATURAN GUAHAN
2007 (FIRST) Regular Session

Bill No. 113 (EC)
Introduced by:

R.J. Respicio
J.V. Espaldon
D.L.G. Shimizu
T.R. Muña Barnes
J.P. Guthertz
F.F. Blas, Jr.
A.B. Palacios, Sr.
E.B. Calvo
M. Forbes

AN ACT TO ADD A NEW §8104(14) TO ARTICLE 1 OF CHAPTER 8 OF TITLE 12 GUAM CODE ANNOTATED RELATIVE TO IMPLEMENTATION OF PROVISIONS TO PROMOTE THE DEVELOPMENT OF ALTERNATE SOURCES OF ELECTRICAL GENERATION IN GUAM, AND TO AMEND §8505(3) OF ARTICLE 5 OF CHAPTER 8 OF TITLE 12 GUAM CODE ANNOTATED, RELATIVE TO SETTING THE RATE OF COMPENSATION FOR NET METERING CUSTOMERS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Mina' Bente Nuebi Na*
3 *Lihselaturan Guåhan* finds that our island's total dependence on petroleum-
4 based generators as our source of electrical power places the people of
5 Guam in a difficult financial position. As demand for oil increases and the
6 earth's limited supply declines, costs will continue to rise, further eroding
7 the buying power of our people. Although much has been accomplished
8 internationally towards reducing our planet's dependence on this finite
9 and ultimately harmful source of energy, our island has made little

1 progress toward reducing, and eventually eliminating, the use of
2 petroleum-based electrical power generation.

3 The increasing cost of oil and advances in technology have made
4 alternate sources of energy more affordable. Fuels and technology once
5 thought to be too costly for Guam, including coal, biodiesel, ethanol,
6 hydrogen and other more environmentally friendly sources of energy are
7 within our reach. Some of these alternate sources, many of which are
8 already in widespread use around the world, are capable of meeting the
9 challenge to supplement the Guam Power Authority (GPA)'s petroleum-
10 based generation capacity and begin reducing Guam's reliance on oil to
11 meet our future energy needs.

12 *I Liheslatura* further finds that an update to the Territorial Energy
13 Assessment of 1982, required by the Energy Policy Act of 2005 (EPACT) for
14 all U.S. insular areas including Guam, recommended that our island take
15 into consideration the installation of power generators that use fuel other
16 than oil to lower consumer costs.

17 *I Liheslatura* further finds that other Pacific islands are already
18 moving toward lessening their dependency on oil by generating power
19 through alternate means. In Oahu, Hawaiian Electric Company is planning
20 a \$137 million, 110 megawatt power plant that would use alternate fuel and
21 is expected to come online in July 2009. Maui Electric Company is also

1 planning an alternate fuel power plant.

2 *I Liheslatura* further finds that the May 9, 2007 Pacific Daily News
3 quotes a GPA report stating “‘the Navy may de-link’ from GPA if power
4 quality does not continue to improve. The Navy pays GPA about \$17
5 million a year, and if the Navy de-linked from the power agency, the lost
6 revenue ‘must be borne by GPA's remaining customers.’” This assertion by
7 GPA, combined with the military’s plans for expansion and its
8 accompanying need for additional power, makes it likely that GPA will
9 need to begin improving the quality of their power and providing less
10 expensive power to the people of Guam.

11 *I Liheslatura* further finds that if GPA were required to implement
12 provisions similar to those pioneered by the Public Utility Regulatory
13 Policies Act (PURPA), it would create the potential for more competition
14 among power producers, provide more reasonable consumer costs for
15 electric power, and increase the likelihood of development of alternate and
16 renewable energy sources for Guam.

17 In addition to providing an avenue to encourage private
18 development of power generation capacity that is not dependent on
19 petroleum-based products, it is the finding of *I Liheslatura* that private
20 residents and businesses wishing to contribute energy to GPA’s electrical
21 grid should be properly compensated. GPA customers who are net

1 contributors to the electric grid should be compensated in a fashion similar
2 to the formula used in other jurisdictions in which net metering is
3 permitted. GPA shall base compensation for net metering on the average
4 marginal cost of energy production.

5 It is therefore the intent of *I Mina' Bente Nuebi Na Liheslaturan Guåhan*
6 that GPA be required to implement provisions similar to those pioneered
7 by the Public Utility Regulatory Policies Act (PURPA), which created a
8 market for power from non-utility power producers, promoted the use of
9 alternate and renewable energy and provided opportunities to reduce the
10 cost of electric power. Provisions requiring GPA to purchase electricity at
11 no more than the avoided cost rate from qualified producers that adhere to
12 all federal and local laws, rules and regulations, will encourage creation of
13 a market for power generated by non-utility producers in Guam,
14 encourage development of alternate and renewable sources of energy and
15 reasonable rates for electricity for the long-term benefit of Guam's people.

16 It is also the intent of *I Liheslatura* to amend GPA's existing net
17 metering law to provide for the purchase of excess power generated by
18 utility customers at the average marginal rate.

19 **Section 2. A new §8104 (14) is added to Chapter 8 of Title 12 Guam**
20 **Code Annotated to read:**

1 “(14) Adopt provisions similar to those established by the
2 Public Utility Regulatory Policies Act (PURPA) relative to purchasing
3 power from producers that generate usable electric energy at the
4 avoided cost rate should the producer meet the Federal Energy
5 Regulatory Commission’s requirements for ownership, size and
6 efficiency. The adopted provisions shall include but not be limited to
7 the following:

8 a. GPA and qualified producers shall execute contractual
9 agreements for periods of no less than one year for the
10 purchase of electric power by GPA for distribution to its
11 customers. The negotiated price shall not be more than the
12 “avoided cost rate” (a rate equal to the cost that GPA avoids if
13 it would have had to generate the power itself) to be
14 determined by the Public Utilities Commission.

15 b. The rate at which GPA negotiates to purchase power
16 from qualified producers shall be just and reasonable to the
17 ratepayers of GPA and in the public interest, and shall not
18 discriminate against qualifying producers.

19 c. The Public Utilities Commission shall determine the
20 total amount of savings to GPA consumers for each contract

1 between GPA and qualified producers, and power rates to all
2 classes of consumer shall be reduced proportionately.”

3 **Section 3. Net Metering Compensation. §8505 (3) of Article 5 of**
4 **Chapter 8 of Division 1 of Title 12 of the Guam Code Annotated is**
5 ***amended to read:***

6 “(3) If the electricity generated by the customer-generator
7 which is fed back to the utility exceeds the electricity supplied by the
8 utility during the billing period, the customer-generator is entitled to
9 compensation for the electricity provided to the utility during the
10 billing period at the average marginal rate of electrical generation at
11 the Authority for that billing period, to be determined by the Public
12 Utility Commission.”

13 **Section 4. Effective Date.** The provisions of this Act shall take effect
14 upon enactment into law.

o