



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

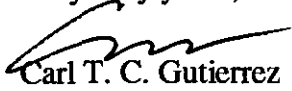
JUN 04 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 055 (LS) entitled: "AN ACT TO AMEND §12002(b) OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE OPERATION OF THE PUBLIC UTILITIES COMMISSION" which was vetoed and subsequently overridden by the Liheslaturan Guåhan, the Legislature. I have designated this legislation as **Public Law No. 26-18**.

Very truly yours,


Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco
Speaker

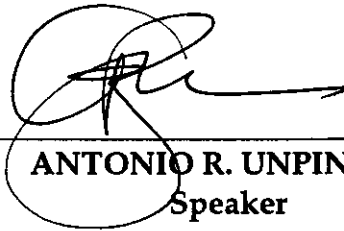
| | |
|-------------------------------------|------------------|
| OFFICE OF THE LEGISLATIVE SECRETARY | |
| ACKNOWLEDGMENT RECEIPT | |
| Received By | <u>JS</u> |
| Time | <u>9:48 a.m.</u> |
| Date | <u>06/05/01</u> |

0238

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

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

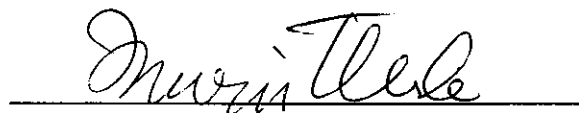
This is to certify that Bill No. 55 (LS), "AN ACT TO AMEND §12002(b) OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE OPERATION OF THE PUBLIC UTILITIES COMMISSION," returned without approval of *I Maga'lahen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 31st day of May, 2001, to pass said bill notwithstanding the veto of *I Maga'lahen Guåhan* by a vote of fourteen (14) members.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWER
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 1st day of June,
2001, at 4:55 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

Public Law No. 26-18

| | |
|---|------------------|
| OFFICE OF THE LEGISLATIVE SECRETARY ACKNOWLEDGMENT RECEIPT | |
| Received By | <u>EC</u> |
| Time | <u>9:48 a.m.</u> |
| Date | <u>06/05/01</u> |

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 55 (LS)

As amended.

Introduced by:

J. F. Ada
K. S. Moylan
M. C. Charfauros
J. M.S. Brown
T. C. Ada
F. B. Aguon, Jr.
E. B. Calvo
F. P. Camacho
Mark Forbes
L. F. Kasperbauer
L. A. Leon Guerrero
V. C. Pangelinan
A. L. G. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO AMEND §12002(b) OF TITLE 12 OF
THE GUAM CODE ANNOTATED, RELATIVE TO
THE OPERATION OF THE PUBLIC UTILITIES
COMMISSION.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that a strong public interest is served by maintaining a strong,
4 independent Public Utilities Commission of Guam ("Commission"), which is
5 independent of the Executive and Legislative Branches. Federal legislation,
6 which authorized the transfer of the U.S. Navy's electric power assets to the

1 Guam Power Authority (“GPA”) under the GPA – Navy customer service
2 agreement, was conditioned on Guam’s creation of an independent public
3 utilities commission. Moreover, GPA’s bond indenture agreements require
4 the existence of an independent Commission.

5 *I Liheslaturan Guåhan* finds that an essential characteristic of Commission
6 independence is its necessary authority to have direct access to the courts of
7 Guam in order to enforce its regulatory orders and to insure that regulated
8 public utilities comply with requirements of law. Currently, 12 G.C.A.
9 §12002(b) requires that the Commission have the consent of the Attorney
10 General of Guam to institute proceedings in the courts of Guam. This statute
11 specifically provides that, “The Attorney General of Guam shall represent the
12 Commission in litigation concerning the affairs of the Commission, provided
13 that he may delegate this duty to the attorney for the Commission with
14 respect to any such litigation.”

15 The intent of this Act is to provide the Commission with direct access to
16 the courts of Guam. This Act also gives statutory recognition to the position
17 of the Commission’s administrative law judge, which office is already
18 established by regulation in the Commission’s rules and regulations.

19 **Section 2.** Section 12002(b) of Chapter 12 of Title 12 of the Guam Code
20 Annotated is hereby *amended* to read as follows:

21 “(b) The Commission may also appoint an attorney, who shall
22 serve at the pleasure of the Commission and whose duties, which may
23 include service as the Commission’s administrative law judge, shall be
24 fixed by the Commission. The attorney, who must have been admitted
25 to practice before the Supreme Court of Guam, shall advise the

1 Commission on all legal matters to which the Commission is legally
2 interested, and may represent the Commission in connection with legal
3 matters before *I Liheslaturan Guåhan*, the courts of Guam, and boards
4 and other agencies of Guam. The Commission is authorized to establish
5 by rule or order that each public utility regulated under this Chapter
6 shall be assessed the costs incurred by the Commission for professional
7 services rendered by the attorney.”

Overridden

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 5/31/01

VOTING SHEET

Vetoed
Bill No. 55

Resolution No. _____

Question: *Notwithstanding the objections of the Governor, should the Legislature override the Vetoed Bill 55?*

| NAME | YEAS | NAYS | NOT VOTING/ ABSTAINED | OUT DURING ROLL CALL | ABSENT |
|---------------------------|------|------|--------------------------|-------------------------|--------|
| ADA, Joseph F. | ✓ | | | | |
| ADA, Thomas C. | ✓ | | | | |
| AGUON, Frank B., Jr. | ✓ | | | | |
| BROWN, Joanne M. S. | ✓ | | | | |
| CALVO, Eddie B. | ✓ | | | | |
| CAMACHO, Felix P. | ✓ | | | | |
| CHARFAUROS, Mark C. | ✓ | | | | |
| FORBES, Mark | ✓ | | | | |
| KASPERBAUER, Lawrence F. | ✓ | | | | |
| LEON GUERRERO, Lourdes A. | ✓ | | | | |
| MOYLAN, Kaleo S. | ✓ | | | | |
| PANGELINAN, Vicente C. | | | | | ✓ |
| SANTOS, Angel L.G. | ✓ | | | | |
| UNPINGCO, Antonio R. | ✓ | | | | |
| WON PAT, Judith T. | ✓ | | | | |

TOTAL

14 _____ _____ _____ 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAY 18 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspal Street
Hagåtña, Guam 96910

| | |
|-------------------------------------|--------------------|
| OFFICE OF THE LEGISLATIVE SECRETARY | |
| ACKNOWLEDGMENT RECEIPT | |
| Received By | <u>[Signature]</u> |
| Time | <u>11:00 A</u> |
| Date | <u>5/18/01</u> |

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 055 (LS) entitled: "AN ACT TO AMEND §12002(b) OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE OPERATION OF THE COMMISSION OF THE PUBLIC UTILITIES COMMISSION" which I have VETOED.

This legislation amends the law authorizing the Public Utilities Commission (PUC) to hire outside counsel to represent the Commission. One of the changes specifies that the Administrative Law Judge of the PUC may also serve as the Commission's outside attorney. This eliminates the role of the ALJ as an independent fact-finder and decision-maker. An independent arbiter, or ALJ, renders a first decision, and this decision may be appealed to the full Commission, or to a court. The decision of the ALJ may be in conflict with the ultimate decision made by the Commission, and may also be, in the first instance, prejudicial to the utility appearing before the ALJ. Should the Administrative Law Judge also be hired as the outside counsel representing the entire Commission, this situation would taint all the hearings before that judge. Any utility appearing before the "judge/counsel" would find itself in the position of arguing its position before a "judge" who, if the "judge" disagrees with the position of the utility, would ultimately be the opposing attorney to the utility in a court case. While it may be desirable for an outside attorney to represent the PUC in court cases, this outside attorney should not be its own Administrative Law Judge.

This legislation deletes this sentence from the PUC law: "The Attorney General of Guam shall represent the Commission in litigation concerning the affairs of the Commission, provided that he may delegate this duty to the attorney of the Commission with respect to any such litigation." As an attempt to keep the PUC, as a body, independent, this deletion is commendable, however, the Organic Act of Guam has been amended and now states that "The Attorney General of Guam shall be the Chief Legal Officer of the Government of Guam." This federal law may be found to apply to the PUC, regardless of the deletion of the above-referenced section in local law.

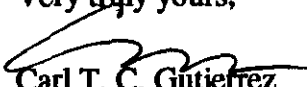
0192

Legislative Secretary
B055/veto
May, 2001 – Page 2

Finally, current law states that the outside counsel must be admitted to the District Court of Guam; this is amended to indicate that the outside counsel for the PUC must be admitted to the Supreme Court of Guam, which is now the body before which local counsels are admitted.

While attempting to preserve the independence of the PUC as a Commission, this legislation has muddied the waters so that the PUC's own Administrative Law Judge can no longer render an independent decision.

Very truly yours,


Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco
Speaker

6

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 5/11/01

VOTING SHEET

Bill No. 55 (LS)

Resolution No. _____

Question: _____

| NAME | YEAS | NAYS | NOT VOTING/ ABSTAINED | OUT DURING ROLL CALL | ABSENT |
|---------------------------|------|------|--------------------------|-------------------------|--------|
| ADA, Joseph F. | ✓ | | | | |
| ADA, Thomas C. | ✓ | | | | |
| AGUON, Frank B., Jr. | ✓ | | | | |
| BROWN, Joanne M. S. | ✓ | | | | |
| CALVO, Eddie B. | ✓ | | | | |
| CAMACHO, Felix P. | ✓ | | | | |
| CHARFAUROS, Mark C. | ✓ | | | | |
| FORBES, Mark | ✓ | | | | |
| KASPERBAUER, Lawrence F. | ✓ | | | | |
| LEON GUERRERO, Lourdes A. | ✓ | | | | |
| MOYLAN, Kaleo S. | ✓ | | | | |
| PANGELINAN, Vicente C. | ✓ | | | | |
| SANTOS, Angel L.G. | ✓ | | | | |
| UNPINGCO, Antonio R. | ✓ | | | | |
| WON PAT, Judith T. | ✓ | | | | |

TOTAL

15

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Chairman:
**Committee on Power,
Public Safety and
the Judiciary**

Suite 5A • Sinajana Shopping Mall II
777 Route 4 • Sinajana, Guam 96926

Phone 1.671 472-3431
Fax 1.671 472-3433

May 7, 2001

Speaker Antonio R. Unpingco
Mina' Bente Sais Na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96932

Dear Speaker Unpingco:

The Committee on Power, Public Safety and the Judiciary to which was referred:

**Bill No. 55 (LS) "AN ACT TO AMEND SECTION 12002 (b) OF TITLE 12,
CHAPTER 12, OF THE GUAM CODE ANNOTATED, RELATIVE TO
OPERATION OF COMMISSION OF THE PUBLIC UTILITIES
COMMISSION"**

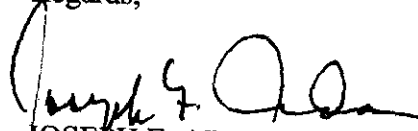
wishes to report back to the Legislature its recommendation **To Pass.**

The voting sheet is as follows;

| | |
|----------------------------------|-----------|
| TO PASS | <u>10</u> |
| NOT TO PASS | <u>0</u> |
| TO REPORT OUT ONLY | <u>0</u> |
| ABSTAIN | <u>0</u> |
| TO PLACE IN INACTIVE FILE | <u>0</u> |

Copies of the Committee Report and other pertinent documents are enclosed.
Thank you for your attention to this matter.

Regards,


JOSEPH F. ADA

JDT/jdt

Attachments

Mina' Bente Sais na Liheslaturan Guahan
The 26th Guam Legislature

The Office of
Senator Joseph F. Ada, Chairman
 Committee on Power, Public
 Safety & the Judiciary

18-Apr-01

Bill - 55

WITNESS SIGN-IN SHEET

| | PRINT NAME | Representing Self, Dept or Agency (pls specify dept or agency) | Telephone # | Mailing Address | Testimony | |
|----|--------------|--|-------------|-----------------|-----------|---------|
| | | | | | For | Against |
| 1. | T. ANN PEREZ | GPA | 647-9225 | | | X |
| 2. | TEREN BROOKS | PUC | 472-6848 | | | X |
| 3. | | | | | | |
| 4. | | | | | | |
| 5. | | | | | | |
| 6. | | | | | | |
| 7. | | | | | | |
| 8. | | | | | | |
| 9. | | | | | | |

