



OFFICE OF THE GOVERNOR  
GUAM


JUL 09 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. 097 (LS) entitled: "AN ACT TO AMEND § 12018 OF TITLE 12, AND TO ADD § 15201.1 TO TITLE 22, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO APPEALS BEFORE THE PUBLIC UTILITIES COMMISSION AND INSURANCE COVERAGE FOR NON-PROFIT SPORTS ASSOCIATIONS" which was vetoed and subsequently overridden by i Liheslatura Guåhan, the Legislature. This legislation is now designated as Public Law No. 26-27.

Very truly yours,

  
Madeleine Z. Bordallo  
I Maga'Lahen Guåhan, Akto  
Acting Governor of Guam

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

cc: The Honorable Antonio R. Unpingco  
Speaker

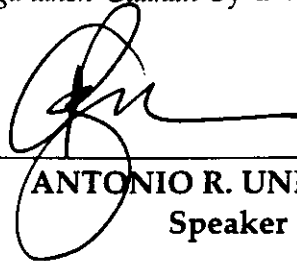
OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	10:30 AM
Date	7/10/01

0306

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

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

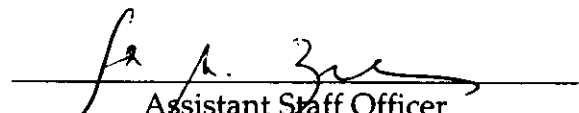
This is to certify that Bill No. 97 (LS), "AN ACT TO AMEND § 12018 OF TITLE 12, AND TO ADD § 15201.1 TO TITLE 22, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO APPEALS BEFORE THE PUBLIC UTILITIES COMMISSION AND INSURANCE COVERAGE FOR NON-PROFIT SPORTS ASSOCIATIONS.," returned without approval of *I Maga'lahaen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 5<sup>th</sup> day of July, 2001, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of Twelve (12) members.

  
ANTONIO R. UNPINGCO  
Speaker

Attested:

  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guåhan* this 6<sup>th</sup> day of July,  
2001, at 4:30 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahaen's Office*

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

**Bill No. 97 (LS)**

As amended by the Author and  
further amended on the Floor.

Introduced by:

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

**AN ACT TO AMEND § 12018 OF TITLE 12, AND TO  
ADD § 15201.1 TO TITLE 22, ALL OF THE GUAM  
CODE ANNOTATED, RELATIVE TO APPEALS  
BEFORE THE PUBLIC UTILITIES COMMISSION  
AND INSURANCE COVERAGE FOR NON-PROFIT  
SPORTS ASSOCIATIONS.**

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

2           **Section 1.** Section 12018 of Chapter 12 of Title 12 of the Guam Code

3           Annotated is hereby *amended* to read as follows:

1           **"Section 12018. Appeals.** From every order made by the  
2 Commission under provisions of this Chapter which is final, or, *if*  
3 preliminary, is of the nature that deferral of review pending entry of a  
4 subsequent final decision would deprive appellant of adequate relief, an  
5 appeal shall lie to the Superior Court of Guam within thirty (30)  
6 calendar days from the date of the order. Failure of the Commission to  
7 act upon a rate request change within one hundred twenty (120) days of  
8 final filing by a public utility shall be deemed a final order denying said  
9 rate request change for the purposes of this Section.

10           A '*final filing*' by a public utility occurs when a utility has filed all  
11 documentation necessary to support the request for a rate change. The  
12 appeal shall be deemed a review of an administrative proceeding and  
13 shall *not* be a trial *de novo*. The appeal shall *not* of itself stay the  
14 operation of the order appealed from, but the Superior Court of Guam  
15 may stay the order after a hearing upon a motion therefor, and may  
16 impose such conditions as it may deem proper as to giving a bond and  
17 keeping the necessary accounts or otherwise in order to secure a  
18 restitution of the excess charges, *if* any, made during the pendency of  
19 the appeal in case the order appealed from should be sustained,  
20 reversed or modified in whole or in part."

21           **Section 2.** The provisions contained in § 1 have *immediate* effect and  
22 shall be applied *nunc pro tunc* to any final filing of any agency that pends  
23 before the Public Utility Commission at the time this Act becomes law.

1           **Section 3.** Section 15201.1 is hereby *added* to Article 2, Chapter 15,  
2 Division 2 of Title 22 of the Guam Code Annotated to read as follows:

3           **“Section 15201.1. Non-Profit Sports Association Insurance.**

4           **(a) Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
5 finds that Youth Sports Organizations were previously insured by  
6 National or International Insurance Company at a rate affordable  
7 by the local organizations and which no insurance company on  
8 Guam could match such rates.

9           **(b) Authorization to Secure Off-Guam Insurance.**

10 Notwithstanding any other provision of law, any registered Guam  
11 non-profit youth sport association is hereby authorized to secure  
12 off-Guam liability and accident insurance for purposes of their  
13 participation in local inter-league plays, off-Guam participations.  
14 This authorization shall *only* be implemented after solicitations of  
15 local insurance companies is exhausted, and *only* if the rate of  
16 insurance by the local insurance company is *more than* twenty-five  
17 percent (25%) higher than those offered by the National or  
18 International Insurance Company.

19           The authorization to secure off-Guam insurance provided  
20 for in this Subsection shall expire on December 31, 2001; *however,*  
21 any policies entered into on or prior to said date shall be effective  
22 for the duration of their policy term.”

*Overridden*

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 7/5/01

## VOTING SHEET

*Vetoed*  
S Bill No. 97

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

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

*26-27*

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
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

12    0    0    0    3

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

JUN 26 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 [Signature]  
Time 2:02 PM  
Date 6/26/01

Dear Legislative Secretary Brown:

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This legislation is unnecessary to correct the situation that i Liheslatura, the Legislature, stated needed correction during the floor debate on this bill. The problem which was the stated reason for enacting this bill is: the Public Utilities Commission does not have a quorum of members to deliberate and decide on rate requests now pending before the PUC by the Guam Telephone Authority and the Guam Memorial Hospital Authority.

As a matter of fact, a new appointee was transmitted to the Legislature approximately 4 days prior to the floor debate on this legislation. Confirmation of the appointee will produce a quorum of members on the PUC. The PUC can then properly consider the pending rate requests.

The reason that the law now provides that a rate request will **automatically be effective** after the passage of 120 days of final filling is: to require the PUC to deliberate on all of the requests. In other words, if a request for rate relief **dies** automatically after 120 days instead of becoming automatically effective, as is the present law, then the PUC can be a very lazy animal indeed. It will be encouraged not bother to review or process any of the requests before it.

Simultaneously with the passage of this legislation, which encourages **inaction** on the part of this Commission, Bill No. 28, which substantially increases the cost of making rate requests to the PUC, was also passed. Bill No. 28 was already vetoed. These two bills, which increase the cost of submitting a rate request, and encourage inaction on the part of the rate-making Commission, can only serve to reduce considerably the proper role of the Public Utilities Commission as an

0287

effective independent rate-making body and negatively affect the agencies which are supposed to be regulated.

The Guam Telephone Authority (GTA) is required to achieve a 1.5 ratio for the Times Interest Earned Ratio (TIER), as required by its lender. This ratio has not been achieved and the agency is working diligently with its lender to achieve it. The GTA has received information from its lender (RUS) that "If such a rate increase is not implemented and GTA's financial condition does not improve, RUS will have no other alternative than to explore its remedies under the bond covenants." Information from the GTA, which refers to the necessity of the GTA to maintain rate stability in order to attract purchasers, indicates that "Rate relief is necessary before the privatization in order to assure its success. Failure to gain rate relief is certain to mean a failure to privatize". At this late date, the failure to privatize GTA, the last government-owned telephone company in the United States, will be a severe loss to our island.

Specific objections to this legislation are that the legislation:

1. Impairs the effectiveness of the PUC.
2. Slows down the rate-making process and makes it more expensive.
3. Is contrary to the understanding of the bondholders of Guam Power Authority, a regulated agency, concerning the manner that rates would be considered.
4. Is contrary to the pledge of the government contained in Guam Power Authority bond indentures not to substantially impair the effectiveness of the PUC or amend the law.
5. Impairs the obligations of the Guam Telephone Authority to achieve a 1.5 ratio for the Times Interest Earned Ratio (TIER) required as a condition of its loan to the United States Rural Utilities Service (RUS).
6. Subjects the regulated utilities to default of their current agreements with bondholders/creditors.

Changing the laws to increase the cost of rate-making to the agencies, which have to pay for the rate-making process and will therefore pass the increased costs on to their customers, and at the same time allowing this expensive rate-making Commission to be idle in its duties, will not be beneficial to the customers, who are the people of Guam. The customers will still be paying, but for nothing.

Very truly yours,



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

Attachment: copy attached for signed bill or overridden bill  
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Speaker



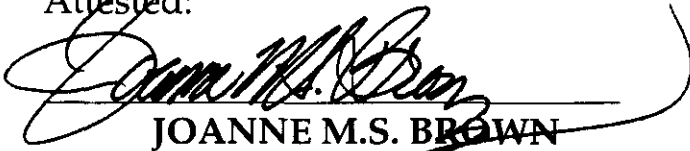
**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

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

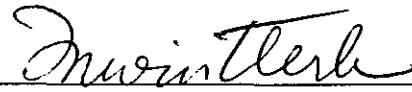
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\_\_\_\_\_  
**ANTONIO R. UNPINGCO**  
Speaker

Attested:

  
\_\_\_\_\_  
**JOANNE M.S. BROWN**  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahen Guåhan* this 14<sup>th</sup> day of June, 2001,  
at 4:45 o'clock P M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
\_\_\_\_\_  
**CARL T. C. GUTIERREZ**  
*I Maga'lahen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

*Overridden*  
*7/5/01*

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

**Bill No. 97 (LS)**

As amended by the Author and  
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Introduced by:

Mark Forbes  
T. C. Ada  
E. B. Calvo  
A. R. Unpingco  
J. F. Ada  
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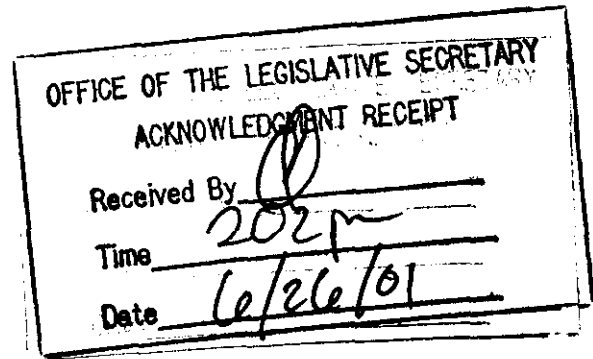
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GOVERNOR OF GUAM

JUN 26 2001

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Twenty-Sixth Guam Legislature  
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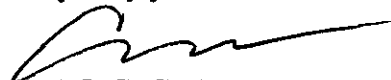
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Very truly yours,



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

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cc: The Honorable Antonio R. Unpingco  
Speaker



United States Department of Agriculture  
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service  
Washington, DC 20250

June 18, 2001

Mr. Vincent P. Arriola  
Manager  
Guam Telephone Authority  
P.O. Box 9008  
Tamuning, Guam 96931

Dear Mr. Arriola:

As you are aware, the Rural Utilities Service (RUS) is very concerned over plans to bring Guam Telephone Authority (GTA) in compliance with the terms of its bond covenants. Specifically, GTA must maintain a Times Interest Earned Ratio (TIER) of 1.50, based on the average TIER of the highest 2 of the preceding 3 years. Over the past 4 years (1997 through 2000), GTA has failed to meet this requirement.

RUS has been working dilligently with GTA over the past several years to seek solutions to remedying this situation. In a letter dated April 10, 2001, GTA indicated that it would seek a rate increase from the Guam Public Utilities Commission (PUC) in such an amount that would enable GTA to meet its TIER obligations. On May 10, 2001, RUS responded favorably to that plan and requested that, upon approval of such rate increase, GTA provide time frames for meeting the TIER requirement.

Unfortunately, RUS has learned that GTA's planned rate increase is in question and faces the possibility of non-action due to the lack of a PUC quorum and the Guam legislature's passage of Bill No. 97 which amends Guam law to provide that failure of the PUC to act upon a rate change within 120 days will be deemed a final order denying the rate change. While RUS has attempted to work with GTA to resolve its noncompliance, it appears that the only mechanism to do so, a modest rate increase, is at risk. If such a rate increase is not implemented and GTA's financial condition does not improve, RUS will have no other alternative than to explore its remedies under the bond covenants. Please be advised that RUS recognizes the severity of the financial situation facing GTA and is extremely concerned about GTA's ongoing inability to meet its TIER requirements.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

# of pages = 2

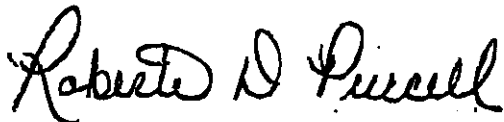
To U. Arriola	From B. Purcell
Dept./Agency	Phone # 202-720-9554
Fax # 202/585-8080	Fax #

Mr. Vincent P. Arriola

2


The plan that RUS supported, to implement a rate increase, appears to be a prudent course of action without placing undue financial burden on GTA and its subscribers. We hope that GTA will continue to seek a remedy to this situation before it deteriorates further.

Sincerely,



ROBERTA D. PURCELL  
Assistant Administrator  
Telecommunications Program  
Rural Utilities Service

cc:

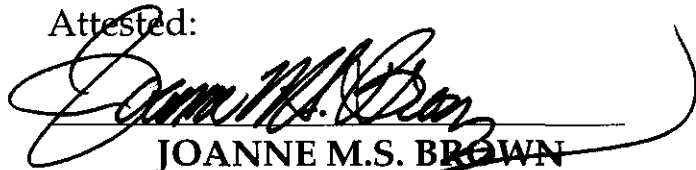
Ms. Veronica M. Ahern   
Attorney-at-Law  
Nixon Peabody LLP

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


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

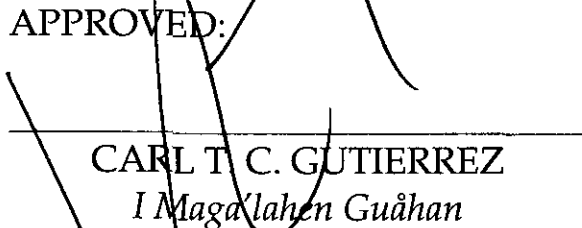
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**ANTONIO R. UNPINGCO**  
Speaker

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**JOANNE M.S. BROWN**  
Senator and Legislative Secretary

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at 4:45 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Maga'lahi's Office

APPROVED:  
  
\_\_\_\_\_  
**CARL T. C. GUTIERREZ**  
I Maga'lahen Guåhan

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

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

**Bill No. 97 (LS)**

As amended by the Author and  
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E. B. Calvo  
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2 Division 2 of Title 22 of the Guam Code Annotated to read as follows:

3           **“Section 15201.1. Non-Profit Sports Association Insurance.**

4                   **(a) Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
5 finds that Youth Sports Organizations were previously insured by  
6 National or International Insurance Company at a rate affordable  
7 by the local organizations and which no insurance company on  
8 Guam could match such rates.

9                   **(b) Authorization to Secure Off-Guam Insurance.**

10 Notwithstanding any other provision of law, any registered Guam  
11 non-profit youth sport association is hereby authorized to secure  
12 off-Guam liability and accident insurance for purposes of their  
13 participation in local inter-league plays, off-Guam participations.  
14 This authorization shall *only* be implemented after solicitations of  
15 local insurance companies is exhausted, and *only* if the rate of  
16 insurance by the local insurance company is *more than* twenty-five  
17 percent (25%) higher than those offered by the National or  
18 International Insurance Company.

19           The authorization to secure off-Guam insurance provided  
20 for in this Subsection shall expire on December 31, 2001; *however,*  
21 any policies entered into on or prior to said date shall be effective  
22 for the duration of their policy term.”

6

**I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN**  
**2001 (FIRST) Regular Session**

Date: 6/11/01

**VOTING SHEET**

Bill No. 97(LS)

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, 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    0    0    0    1

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
 Clerk of the Legislature

\* 3 Passes = No vote  
 EA = Excused Absence



# MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hiniråt, Rifotma yan Rinueba,  
yan Asunton Fidiråt, Taotao Hiyong yan Hiniråt

*Senadot Mark Forbes, Gehilu  
Kabisiyon Mayuråt*

06 JUN 2001

Speaker Antonio R. Unpingco  
I Mina' Bente Sais Na Liheslaturan Guåhan  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 97, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 97: "An act to amend §12018 of Title 12 of the Guam Code Annotated, relative to appeals before the Public Utilities Commission."**

The voting record is as follows:

TO PASS

8

NOT TO PASS

0

ABSTAIN

0

TO PLACE IN INACTIVE FILE

0

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.

  
MARK FORBES

Attachments



# MINA ' BENTE SAIS NA LIHESLATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,  
yan Asuntón Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu  
Kabisiyon Mayurát*

06 JUN 2001

## MEMORANDUM

**TO:** Committee Members

**FROM:** Chairman

**SUBJECT:** Committee Report- BILL NO. 97: "An act to amend §12018 of Title 12 of the Guam Code Annotated, relative to appeals before the Public Utilities Commission."

Transmitted herewith for your information and action is the report on Bill No. 97 from the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 97
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

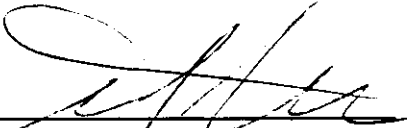
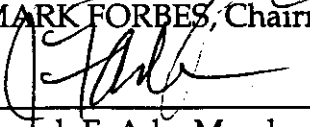
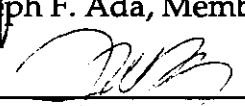

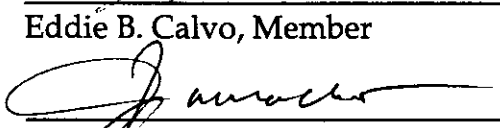
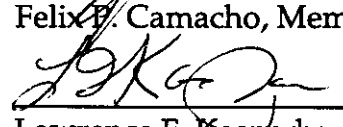
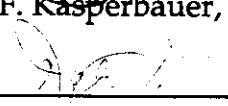

**MARK FORBES**

Attachments

**Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,  
Foreign and General Affairs**  
**I Mina' Bente Sais Na Liheslaturan Guåhan**

**Voting Record**

BILL NO. 97: "An act to amend §12018 of Title 12 of the Guam Code Annotated, relative to appeals before the Public Utilities Commission."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK FORBES, Chairman	✓	_____	_____	_____
 Joseph F. Ada, Member	✓	_____	_____	_____
 Joanne M.S. Brown, Member	✓	_____	_____	_____
 Eddie B. Calvo, Member	✓	_____	_____	_____
 Felix P. Camacho, Member	✓	_____	_____	_____
 Lawrence F. Kasperbauer, Ph. D., Member	X	_____	_____	_____
 Kaleo S. Moylan, Member	✓	_____	_____	_____
 Antonio R. Unpingco, <i>Ex-Officio Member</i>	✓	_____	_____	_____
_____ Thomas C. Ada, Member	_____	_____	_____	_____
_____ Lou A. Leon Guerrero, Member	_____	_____	_____	_____
_____ Vicente C. Pangelinan, Member	_____	_____	_____	_____

**I MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**COMMITTEE ON RULES, GENERAL GOVERNMENTAL**  
**OPERATIONS, REORGANIZATION AND REFORM, AND**  
**FEDERAL, FOREIGN AND GENERAL AFFAIRS**  
**SENATOR MARK FORBES, CHAIRMAN**

**COMMITTEE REPORT**  
**ON**  
**BILL NO. 97**

**“An act to amend §12018 of Title 12 of the Guam Code Annotated,  
relative to appeals before the Public Utilities Commission.”**