

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



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COMMONWEALTH REGISTER

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NUMBER 11

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TABLE OF CONTENTS

EMERGENCY ORDER

Board Emergency Order #01 Approved Practice Agreement Amendment for Remote Supervision Health Care Professions Licensing Board.....	030982
--	---------------

DN OF REGULATIONS

Public Notice of Certification and Adoption Of the Rules and Regulations Governing the Smoke-Free Air Act of 2008 Department of Public Health	030986
---	---------------

EXECUTIVE ORDERS (2010)

E.O. 2010-17 Commonwealth Utilities Corporation's Imminent Generation and Other Failure, and the Need to Provide Immediate Reliable Power, Water and Wastewater Services Office of the Governor.....	030996
---	---------------

E.O.2010-09 Commonwealth Utilities Corporation" Imminent Generation and Other Failure and the Need to Provide Immediate Reliable Power, Water and Wastewater Services Office of the Governor.....	031024
--	---------------

DIRECTIVES (2010)

Directive No. 276 Implementation of 64-hour workweek Office of the Governor.....	031049
---	---------------

Directive No 277 Declaration of Citizenship Day, November 4, 2010 Holiday with Pay Office of the Governor.....	031051
---	---------------

DIRECTIVES #071 thru #100

Directive No. 071 Withdrawal of Dir. #17 – Re-issuance of Directive on E.O. 94-3, Section 214(c), Personnel Management Functions Office of the Governor	031052
Directive No. 072 Withdrawal of Dir. #18 – Re-issuance of Directive on E.O. 94-3, Section 214, Personnel Office Abolished and Functions Transferred Office of the Governor	031053
Directive No. 073 Withdrawal of Dir. #19 – Re-issuance of Directive on E.O. 94-3, Division of Environmental Quality Transferred Office of the Governor	031054
Directive No. 074 Withdrawal of Dir. #20 – Commonwealth Council for Arts & Culture Office of the Governor	031055
Directive No. 075 Withdrawal of Dir. #21 – Re-issuance of Directive on E.O. 94-3, Section 306(b), Land Commission Abolished and Functions Transferred Office of the Governor	031056
Directive No. 076 Withdrawal of Dir. #22 – Re-issuance of Directive on E.O. 94-3, Section 307(b), Outside Contractors Office of the Governor	031057
Directive No. 077 Withdrawal of Dir. #23 – Re-issuance of Dir. On E.O. 94-3, Section 309, Division of Intergovernmental Relations Abolished Office of the Governor	031058
Directive No. 078 Withdrawal of Dir. #24 – Re-issuance of Dir. On E.O. 94-3, Section 207, Corporate Charters Office of the Governor	031059
Directive No. 079 Withdrawal of Dir. #25 – Re-issuance of Directive on E.O. 94-3, Section 406, Termination of Trusteeship Task Force and the Task Force on Privatization of Government Services Abolished Office of the Governor	031060
Directive No. 080 Withdrawal of Dir. #26 – Re-issuance of Dir. On E.O. 94-3, Section 301(3)(b), Wage and Salary Review Board Abolished Office of the Governor	031061
Directive No. 081 Withdrawal of Dir. #27 – Re-issuance of Dir. On E.O. 94-3, Section 305(b), State Planning Council on Dev. Disabilities Allocated Office of the Governor	031062

Directive No. 082 Withdrawal of Dir. #28 – Re-issuance of Dir. On E.O. 94-3, Section 305(b), State Rehabilitation Advisory Council Allocated Office of the Governor	031063
Directive No. 083 Withdrawal of Dir. #29 – Re-issuance of Dir. On E.O. 94-3, Section 404, Saipan Street Directory Commission Abolished Office of the Governor	031064
Directive No. 084 Withdrawal of Dir. #30 – Re-issuance of Dir. On E.O. 94-3, Section 401(e), Coastal Resources Appeals Board Abolished And Functions Transferred Office of the Governor	031065
Directive No. 085 Withdrawal of Dir. #31 – Re-issuance of Dir. On E.O. 94-3, Section 401(e), Building Safety Code Appeals Board Abolished And Functions Transferred Office of the Governor	031066
Directive No. 086 Withdrawal of Dir. #32 – Re-issuance of Dir. On E.O. 94-3, Section 304(b), Commonwealth utilities Corporation Allocated Office of the Governor	031067
Directive No. 087 Withdrawal of Dir. #33 – Re-issuance of Dir. On E.O. 94-3, Section 206(a), Coastal Resources Manage Office Transferred Office of the Governor	031068
Directive No. 088 Withdrawal of Dir. #34 – Re-issuance of Dir. On E.O. 94-3, Section 307(a), Commonwealth Lottery Commission Abolished And Functions Transferred Office of the Governor	031069
Directive No. 089 Withdrawal of Dir. #35 – Re-issuance of Dir. On E.O. 94-3, Section 102, Special Assistance for Public Liaison Re-designation Office of the Governor	031070
Directive No. 090 Withdrawal of Dir. #36 – Re-issuance of Dir. On E.O. 94-3, Section 106(a) Department of Public Health Redesignated Office of the Governor	031071
Directive No. 091 Withdrawal of Dir. #37 – on Health Planning and Development Agency And the Health Coordination Council Allocated Office of the Governor	031072

Directive No. 092 Withdrawal of Dir. #38 – Re-issuance of Dir. On E.O. 94-3, Section 214, Administrative Services Division Transferred Office of the Governor	031073
Directive No. 093 Withdrawal of Dir. #39 – Re-issuance of Dir. On E.O. 94-3, Section 209, Temporary Alcoholic Beverage Licenses Authority Transferred Office of the Governor	031074
Directive No. 094 Withdrawal of Dir. #40 – Re-issuance of Dir. On E.O. 94-3, Section 302(d), Statistical Advisory Council Abolished Office of the Governor	031075
Directive No. 095 Withdrawal of Dir. #41 – Re-issuance of Dir. On E.O. 94-3, Section 308(e), Commonwealth Library Council Allocated Office of the Governor	031076
Directive No. 096 Withdrawal of Dir. #42 – Re-issuance of Dir. On E.O. 94-3, Section 304(a), Commonwealth Ports Authority Allocated Office of the Governor	031077
Directive No. 097 Withdrawal of Dir. #43 – Re-issuance of Dir. On E.O. 94-3, Section 302(c), Alcoholic Beverage Control Board Abolished and Functions Transferred Office of the Governor	031078
Directive No. 098 Withdrawal of Dir. #44 – Training Division Transferred Office of the Governor	031079
Directive No. 099 Withdrawal of Dir. #45 – Re-issuance of Dir. On E.O. 94-3, Section 306(a), Marianas Public Land Corporation Dissolved And Functions Transferred Office of the Governor	031080
Directive No. 100 Withdrawal of Dir. #46 – Re-issuance of Dir. On E.O. 94-3, Section 308(a), Division of Sports and Recreation Established. Office of the Governor	031081

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
HEALTH CARE PROFESSIONS LICENSING BOARD

In *the Matter of Juan B. Pangelinan, PA (medex)*
(Amendment of Practice Agreement)

Case No. 2010-04

BOARD EMERGENCY ORDER #01
APPROVING PRACTICE AGREEMENT AMENDMENT
FOR REMOTE SUPERVISION

Summary

This Order is entered on Monday, November 15, 2010, pursuant to the Board's decision at its meeting on Wednesday, November 11, 2010. It immediately authorizes the licensee, a **PA working** at the Tinian Health Center (THC), to work under the supervision of a physician located at a site other than the same Tinian Health Center. This Order thereby allows **PA Juan B. Pangelinan**, as the only **non-nurse** medical professional that is a full-time provider stationed on Tinian. This Order is valid through the day of the Board's scheduled January board meeting.

Discussion

The "Health Care Professions Licensing Act of 2007" ("the Health Care Act" or "the Act"), 3 CMC §§ 2201 - 36, P.L. 15-105, requires that a physician assistant ("PA") be licensed by the Health Care Professions Licensing Board ("the Board") **and** that **his/her** conduct conform to certain statutory and regulatory standards and specific dictates.

The pre-existing regulations of the predecessor Medical Professions Licensing Board continue in effect, except as amended by the Board:

- (e) Except as otherwise provided herein, the regulations, guidelines, standards, and procedures related to the regulation of the functions and operation of a regulated health care professional and/or profession that are in force when this Act becomes effective, shall continue to apply until amended or repealed by the Board.

3 CMC §§ 2235(e). The Board has amended its regulations in **part**. 140 NMIAC 50-3 Commonwealth Health Care Professions Licensing Board Regulations. 30 Com Reg. 03, p28388 - 28426. It has not yet amended its PA regulations so the pre-existing regulations apply.

The Board's authority proceeds from the Act and the Administrative Procedure Act. The Act established the Board with complete jurisdiction, power and authority to regulate the health care professions. 3 CMC § 2204(a). The Board's powers include:

- To adopt rules and regulations to enforce the Act. 3 CMC § 2206(b);
- To issue, deny and condition licenses. 3 CMC § 2206 (c);
- To conduct disciplinary hearings to suspend or revoke licenses, 3 CMC § 2206 (h);
- To suspend or revoke a license. 3 CMC § 2206(k);
- To act summarily in the face of the likelihood of harm to:
 - i. the public health, safety or welfare; or
 - ii. to the patients of a health care professional who is regulated by this Chapter. 3 CMC § 2206(n).

A PA practicing with a license issued prior to the new Act and its new regulations continues as a licensee until the Board suspends or revokes that license:

For the transition period between the application of the old Medical Practice Act

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and the new Health Care Professions Licensing Act, specifically until new applicable Regulations are promulgated, each practicing member of each profession over which the Board has jurisdiction shall be deemed practicing with a license until regulations are promulgated for the respective profession and an indicated re-licensing application period has ended, or until the Board acts to suspend, modify, revoke or otherwise affect a license, whichever comes first.

140 NMIAC § 50.3-101-002.

At all times a PA shall have in place a "practice agreement" with a supervising physician. 140 NMIAC § 50.1-1220, 1230(d). Such agreement ordinarily provides the scope of a PA's activities and ensures that the physician will be available for consultation, and will review and co-sign patient records. It also provides that the physician co-signs for prescription of medication and other treatments, except that the PA may not prescribe DEA-controlled substances. 140 NMIAC § 50.1-1235.

The Administrative Procedure Act provides for license hearings, when a notice of a hearing is required, and defers to an agency's specific organic act. 1 CMC §§ 9108 - 10. This Order addresses an emergency situation coming under the specific "immediate and grave danger to the public" provision of the HCPLA, 3 CMC § 2206(n).

Facts

Dr. Priyantha Wijayagunaratne, the only physician at THC, has submitted his resignation effective December 1, 2010. However, beginning on Friday, November, 12, 2010, Dr. Wijayagunaratne will be on sick leave until December 1, 2010. Accordingly, as of Monday, November 15, 2010, THC is without a physician.

THC is requesting that the Board consider an Emergency Order to exempt THC's Mid-Level Provider, PA Juan B. Pangelinan, so as to provide health care at THC through remote supervision. CHC, through Mr. John Tagabuel and Secretary Joseph K. Villagomez, has agreed to provide physician supervision to PA Pangelinan by the CHC's Emergency Room physicians, namely Dr. Marty Rohringer, Dr. Trent Scheibe, Dr. Greg Kotheimer, and Dr. Shirish Balanchandra.

Board Findings and Conclusions

The Board finds that it would be unfair to the people of Tinian to restrict Mr. Pangelinan from practicing at THC merely because the Center does not presently have a physician. This Order provides authority for remote supervision from Saipan. We will not continue the authority provided in this Order indefinitely but we will continue it for a time.

Ruling and Ordering Paragraphs

The Board having been fully advised in the premises of this matter, for the above-stated reasons, hereby Orders that:

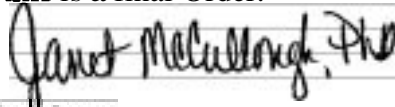
1. Mr. Juan B. Pangelinan, a licensed physician assistant (medex), may work as a licensed professional on Tinian.
2. Supervision: Dr. Marty Rohringer, Dr. Trent Scheibe, Dr. Greg Kotheimer, and Dr. Shirish Balanchandra, physicians from CHC's Emergency Room, will be the supervising physicians for Mr. Pangelinan.
3. Mr. Pangelinan shall submit a new Practice Agreement, which shall be approved by the Board, to address the requirements of this Order, and which shall be signed by both him and the supervising physicians (fax signatures are acceptable). This

1 agreement must be submitted to the Board no later than Tuesday, November 16, 2010
2 at 4:30pm, by hard copy or electronically, otherwise this Order expires 24 hours later.
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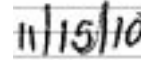
- 4 4. The agreement shall include:
5 a. The supervising **physician(s)** to provide the required supervision of Mr.
6 Pangelinan with necessary contact by telephone.
7
8 b. Daily **emails** shall be exchanged between Mr. Pangelinan and the
9 supervising **physician(s)** for permitted prescriptions.
10
11 c. The database of patients on chronic or long-term scheduled medications
12 shall be maintained and updated by Mr. Pangelinan. The supervising
13 physician to ensure adherence to the standard of care shall review it
14 monthly.
15
16 d. Chart notes and prescriptions will be sent to the supervising **physician(s)**
17 for review and signature, as provided below.
18
19 e. The supervising **physician(s)** shall closely monitor chronic pain contracts
20 for adherence.
21
- 22 5. Mr. Pangelinan is authorized to prescribe:
23 a. Schedule **II** medications as follows: None.
24 Schedule **III** through V medications as follows:
25 (1) Mr. Pangelinan is authorized to prescribe Schedule **III** through V
26 medications as needed. The supervising physician will be informed of
27 said prescriptions via daily **emails**.
28
29 (2) The **supervising physician(s)** shall review and sign chart notes
30 and prescriptions within 3 weeks.
31
32 (3) Mr. Pangelinan may prescribe no more than a 21-day supply of
33 Schedule **III-V** medications. For **refills**, supervising physician must co-
34 sign prescription and his DEA number also needs to be clearly written on
35 prescription form;
36
37 (4) A prescription for Schedule **III-V** written by PA Pangelinan must
38 be documented in the patient's chart and must include the name of the
39 drug, dose, route of administration, frequency, duration, quantity
40 prescribed and name of supervising physician he consulted with.
41
- 42 6. This Order shall be continued through the following date: The day of the
43 Board's scheduled January board meeting.
44
- 45 7. The Board shall review this matter at its next board meeting. THC management
46 is invited to appear at that meeting and update the Board on its efforts at recruiting a
47 supervising physician.
48
- 49 8. A copy of this Order shall be placed in a public area of the Tinian Health Center.
50 The Executive Director, or her designee, is directed to do the following in person or by
51 electronic means:
52 b. Serve this Order on the licensee, Mr. Juan B. Pangelinan.
53 c. Serve this Order on the director of the Tinian Health Center;
54 d. Serve this Order on the Secretary of the Dept. of Public Health;
55 e. Serve this Order on the supervising physicians at CHC's ER;

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- f. Have the Order published in the next Commonwealth Register.
 - g. Place this matter on the Board's agenda for ratification at its next meeting.

A party seeking to appeal this Order is directed to 1 CMC § 9112 (b), which provides for judicial review of **final** orders within **30** days **in** the Commonwealth Superior Court. The Board believes that **this** is a final Order.



/s/ Dr. Janet McCullough, Ph.D.
Chair



Dated:

/s/ Dr. Ahmad Al-Alou, Board Member
/s/ Dr. Leticia Borja, Board Member
/s/ Ms. Pam Carhill, Board Member
/s/ Dr. Ken Pierson, Board Member

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NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS

REGULATIONS TO IMPLEMENT PROVISIONS OF THE SMOKE-FREE AIR ACT OF 2008, PUBLIC LAW 16-46, 6 CMC §§ 3171-3187

ACTION TO ADOPT PROPOSED REGULATIONS: On September 22, 2010, as required under 1 CMC § 9104(a), the Commonwealth of the Northern Mariana Islands, Department of Public Health, published public notice of its intent to adopt permanent regulations to implement provisions of the Smoke-Free Air Act of 2008, PL 16-46, 6 CMC §§ 3171-3187. (See 32 Com. Reg. 030657 (Sept. 22, 2010)). The Commonwealth of the Northern Mariana Islands, Department of Public Health, HEREBY ADOPTS AS PERMANENT REGULATIONS the attached Regulations, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9102, 9104(a), 9105 and applicable regulations.

AUTHORIN: The Department of Public Health, under 1 CMC §§ 2603 and 2605, is empowered to maintain and improve the health conditions and is authorized to adopt rules and regulations regarding those matters over which it has jurisdiction. The Smoke-Free Air Act of 2008, PL 16-46, § 3181(a) mandates the enforcement of its provisions by the Department of Public Health.

MODIFICATIONS AND SUBSTANTIVE CHANGES FROM PROPOSED REGULATIONS: In its notice of intended action published on September 22, 2010, the Department of Public Health published proposed regulations to implement provisions of the Smoke-Free Air Act of 2008, PL 16-46, 6 CMC §§ 3171-3187. (See 32 Com. Reg. 030657-030671 (Sept. 22, 2010)). The following modifications and substantive changes have been made to the proposed regulations and incorporated into the final permanent regulations attached to this notice:

- Section **302(1)(a)**: Deleted "and nondesignated parking areas"
- Section 500: Deleted "bars (including open-air bars)" from the list of entities or locations not regulated under Public Law 16-46. Added a new subsection (1) by adding: "(1) Bars, including open air bars, until the earlier of an established time when the kitchen ceases servicing meals or 10:00 p.m., provided that smoke does not infiltrate into areas where smoking is prohibited."
- Section **700(1)(c)**: Deleted "faith-based organization and groups"

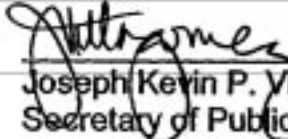
Section 700(1)(d): Changed "two (2) quarterly orientation sessions" to "one (1) quarterly orientation session"

- Section **800(1):** Added "person"

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b) and applicable regulations, these adopted Regulations are effective on December 1, 2010 or 10 days after compliance with 1 CMC §§ 9102, 9104(a) and 9105 and publication in the Commonwealth Register, whichever date is later.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to APA, 1 CMC § 9104(a)(1) the Department gave proper notice of its intended action. Pursuant to 1 CMC § 9104(a)(2) the Department afforded all interested persons reasonable opportunity to submit data, views, or arguments, in writing. The Department notes that no data, views, or arguments were submitted in response to the notice of intended action. Upon this adoption of the Regulations, the Department, if requested to do so by an interested person, either prior to adoption or within thirty days thereafter, will issue a concise statement of the principle reasons for overruling the reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

I, Joseph Kevin P. Villagomez, Secretary of Public Health, hereby approve the attached Regulations, and further certify that the attached Regulations are a true copy of the regulations as adopted by the Department of Public Health.

Submitted by:  11-17-2010
Joseph Kevin P. Villagomez
Secretary of Public Health Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

 11-18-10
Edward T. Buckingham
Attorney General Date

Filed and Recorded by:  11-18-10
Esther M. San Nicolas
Commonwealth Register Date

**DEPARTMENT OF PUBLIC HEALTH
BUREAU OF ENVIRONMENTAL HEALTH**

**REGULATIONS TO IMPLEMENT PROVISIONS OF THE SMOKE-FREE AIR
ACT OF 2008, PUBLIC LAW 16-46, 6 CMC §§ 3171-3187**

100 SCOPE AND AUTHORITY

101 The purpose of the Smoke-Free Air Act of 2008 and these regulations is to protect the public health and welfare by prohibiting smoking in public places and places of employment; and to guarantee the right of nonsmokers to breathe smoke **free** air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke. The Act shall not be construed to prohibit or otherwise restrict smoking in outdoor areas. The Act shall not be construed to **permit** smoking where it is prohibited or otherwise restricted by other applicable law, ordinance, or resolution. The Act and these regulations shall be liberally construed to **further** its purpose.

102 The regulations throughout this chapter implement the provisions of the Smoke-Free Air Act of **2008, P.L. 16-46**. The Department of Public Health, under 1 CMC §§ 2603 and 2605, is authorized to promulgate rules and regulations to effect its duties under Title 6, Division 3, Chapter 1, Article 4 of the Commonwealth Code.

103 These regulations shall become effective on December 1, 2010.

200 DEFINITIONS

Act means the Smoke-Free Air Act of **2008**

Attached Bar means a bar area of a restaurant

Bar means an establishment that is devoted to the serving of alcoholic beverages for **consumption** by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold **as well as** professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed area means an area or space bounded by walls, with or without windows, continuous **from** floor to ceiling and enclosed by one or more doors, including but not limited to **an** office, **function** room, or hallway. If an outdoor area, as defined herein, has structure capable of being enclosed by walls or covers, regardless of the materials or removable nature of the walls or covers, that area will be considered enclosed when the walls or covers are in place.

Entrance means the opening of a building. For the purposes of these regulations, it can be a door used for entry or exit or **an** operable window.

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals or other clinics, including nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, **chiropractors**, physical therapists, physicians, dentists, and **all** specialists within these professions. This **definition** shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Outdoor area means **any** space open to the outside air at all times.

Outdoor Arena means a location in which an organized event takes place

Person means **any** individual, **firm**, fiduciary, partnership, corporation, trust or association, however formed, club, trustee, agency or receiver.

Place of employment means an area under the control of a public or private employer that employees normally **frequent** during the course of employment, including, but not limited to, work area, employee lounges, **restrooms**, conference rooms, meeting rooms, **classrooms**, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

Public place means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health care facilities, Laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

Restaurant means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering

facilities in which food is prepared on the premises for serving elsewhere. The term “**restaurant**” shall include an attached bar.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Service line means **an** indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the services involves the exchange of money.

Shopping mall means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in **any** manner or in any form.

Sports arena means sports pavilions, stadiums, gymnasium, health spas, boxing arenas, swimming pools, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

300 PUBLIC PLACES and PUBLIC MEETINGS

301 Prohibition of Smoking in Government Facilities: Smoking is prohibited in all enclosed areas and outdoor areas within 25 feet of any doorway entrance or exit to a government facility that is owned, leased, or operated by the Government of the Commonwealth of the Northern **Mariana** Islands (CNMI) or any instrumentality thereof; including but not limited to office buildings, warehouses and vehicles owned and leased by the same. For the purposes of determining compliance within these regulations, the Department will confer with the CNMI Department of Public Works and the CNMI Building Code as to all applicable standards for buildings and enclosure requirements.

302 Prohibition of **Smoking** in Public Places: Smoking is prohibited in all enclosed areas of public places, including but not limited to areas available to and customarily used by the general public and other common-use areas. For the purposes of determining compliance within these regulations, the Department of Public Health will assess these areas according to the following requirements:

(1) Sports arenas including enclosed places in outdoor arenas. Smoking shall be prohibited in:

(a) Any open field used for a sporting event including sitting areas (**bleachers/stands**) with the exception of designated **parking**.

(b) Within the fenced perimeter; common areas; fields; and general premises of the Gilbert C. Ada Gymnasium; Tan **Ko Palacios** Baseball

Field; **Miguel** Pangelinan Softball Field; and the track & **field/soccer** area, with the exception of the parking lot.

- (2) Smoking shall be prohibited in the lobby areas of motels or hotels except in designated smoking areas in **an** outdoor area 25 feet or farther from the entrances, exits, operable windows, and ventilation intakes that serve **an** enclosed public place or workplace in which smoking is prohibited.

303 Prohibition of **Smoking** in Places of **Employment**: Smoking is prohibited in all enclosed facilities within places of employment, or within 25 feet of any person who is not smoking if the place or site of work is **an** outdoor area or **area** other than an enclosed area, without exception. For the purposes of determining compliance within these regulations, employers must adhere to the following:

- (1) Inform employees, agents, subagents, contractors, **customers** and all other persons who are physically present on the premises of the prohibition against smoking.
- (2) Prominently posting "Smoking" or "No Smoking" signs, or the international "No Smoking" symbol,
- (3) Removing all ashtrays,
- (4) Asking any person who smokes in an area where smoking is prohibited to refrain **from** smoking,
- (5) If the person does not ~~refrain~~ from smoking, asking **the** person to leave,
- (6) Refusing service to a person who is smoking.

If the **person** refuses to leave, the proprietor or other person in charge shall handle the situation in **the** same manner **as** for violations of other laws, employee policies, or house rules.

Nothing in this section prohibits the owner, manager, or other person in charge **from** taking more **stringent** measures to protect individuals from secondhand smoke.

304 Prohibition of **Smoking** on Property of the Public School System and the Northern Marianas College: [Reserved]

400 REASONABLE DISTANCE

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where **smoking** is prohibited. For the purposes of determining compliance within these regulations, the Department will assess reasonable distance according to the following requirements:

- (1) Any **smoking** shall be no less than 25 feet away from any entrances including window openings and ventilation systems or any other means of possible infiltration to an enclosed area.

- (2) Any smoking shall be no less than 25 feet away from any person who is not smoking, if the place or site of work is an outdoor area or area other than an enclosed area; and
- (3) In no case shall this provision be used to permit smoking on school grounds or property of the CNMI Public School System; the Northern Marianas College; and any school or college-related functions, events, or activities on Saipan, **Tinian**, or Rota.
- (4) There shall be no **smoking** permitted or allowed outside of nor on any balconies of any motel or hotel room regardless of whether such room is designated as a **smoking** room. Any smoking shall be confined to the area within the **smoking-designated** room.

500 WHERE SMOKING NOT REGULATED

Smoking may be allowed by owners or operators **as** to entities or locations not regulated under Public Law **16-46** and as incorporated into these regulations, including private residences or homes; private apartments or condominiums; within specific and limited **hotel/motel** rooms that are rented to guests and are designated **as smoking** rooms; private and semiprivate rooms in nursing homes and **long-term** care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing for a designated **smoking** room; outdoor areas of places of employment except those covered by the provisions of **\$3174** and **\$ 3176**; enclosed gaming areas of a casino establishment; and fully enclosed and well-ventilated smoking areas at the departure terminal of the Commonwealth airports.

For the purposes of determining compliance within these regulations, the following are to comply with the prohibition against smoking **as** regulated entities or areas in the following manner:

- (1) Bars, including open air bars, until the earlier of an established time when the kitchen ceases servicing meals or **10:00 p.m.**, provided that smoke does not infiltrate into areas where smoking is prohibited.
- (2) Attached bars until the earlier of **an** established time when the kitchen ceases servicing dinner meals or **10:00 p.m.**, provided that smoke does not **infiltrate** into areas where smoking is prohibited. Because ventilation systems are inadequate to prevent second-hand smoke, whenever smoking occurs or is permitted in **an** attached bar area of a restaurant under this provision, any smoking including second-hand smoke shall be controlled through complete and separate enclosures such as enclosed glass windows; separate entrances; and sealed doors from the dining area **and/or** dining patrons, after 10:00 p.m. Ventilations or exhaust fans are deemed insufficient to control infiltration or **drift** of smoke from the permitted smoking area. Total and separate enclosures are required.
- (3) Private residence used as a licensed child care, adult day care, or health facility; and

- (4) No more than 20% of rooms rented to guests in an establishment may be designated as smoking. Room reservations should be for **non-smoking** rooms unless a customer specifically requests for a smoking room.

600 COMPLIANCE

The person, *firm*, corporation, or other entity that owns, leases, manages, operates, or otherwise controls the use of a public place, workplace, or public transportation regulated by this law shall take necessary steps to prevent smoking by:

- (1) Informing employees, agents, subagents, contractors, customers and all other persons who are physically present on the premises of the prohibition against smoking.
- (2) Prominently posting "Smoking" or "No Smoking" signs, or the international "No **Smoking**" symbol,
- (3) Removing all ashtrays,
- (4) Asking any person who smokes in an area where smoking is prohibited to **refrain from smoking**,
- (5) If the person does not refrain from **smoking**, **asking** the person to leave,
- (6) Refusing service to a person who is smoking,

If the person refuses to leave, the proprietor or other person in charge shall handle the situation in the same manner **as** for violations of other laws or house rules

Nothing in this section prohibits the proprietor or other person in charge from taking more stringent measures to protect individuals from secondhand smoke.

700 ENFORCEMENT

This act shall be enforced by the Department of Public Health (DPH) through the Bureau of Environmental Health (BEH) or an authorized designee. Such enforcement will include, but is not limited to, the following measures:

- (1) BEH, in **conjunction** with the Community Guidance Center Program Manager for Substance-Abuse or Tobacco Prevention ("**CGC**") shall conduct a Community Outreach and Information Program designed to inform the community of the provisions of Public Law 16-46 and these regulations through the following activities:
 - (a) BEH and CGC shall develop an information brochure and "Frequently Asked Questions" or "**FAQs**" for the community and for regulated entities or businesses in order to inform the community of the provisions of P.L. 16-46.
 - (b) This community outreach effort shall take place through December 1, 2010 on a regular basis.

- (c) BEH and CGC shall conduct presentations to the Alcohol Beverage and Tobacco Control Board; the Marianas Visitor's Bureau; the Saipan Chamber of Commerce; Rotary Club of Saipan; Rota and **Tinian** Mayor's Offices; the Department of Public Safety officers and personnel; the CNMI Fire Division; the Hotel Association of the Northern **Mariana** Islands; and any other civic, community or business organizations.
 - (d) After December 1, 2010 BEH and the Community Guidance Center shall wnduct at least one (1) quarterly orientation session on Saipan regarding Public Law 16-46 until December 1,2011.
 - (e) There shall be at least one additional orientation or presentation on **Tinian** and Rota **after** December 1,2010.
 - (f) The CNMI Business Licensing Office, CNMI Zoning Office, and Registrar of **Corporations** shall provide a copy of this act to all applicants submitting an application to do business in the **CNMI and/or** any Information Brochure or **FAQs** prepared by BEH which summarizes the provisions of Public Law 16-46 and its requirements.
- (2) BEH **and/or** the Fire Division of the Department of Public Safety (DPS) shall conduct inspections for compliance of this act during regular scheduled mandated inspections including sanitation **and/or** fire safety inspections in addition to the following activities:
- (a) BEH shall make itself available for courtesy inspections for compliance under this chapter **without** any penalty in order to provide feedback and information to affected businesses seeking to comply with Public Law 16-46;
 - (b) BEH may solicit or may request information **from** business **owners** or regulated entities in order to answer any questions or to resolve any issues or concerns relating to the Act and its provisions or these regulations;
 - (c) BEH shall, in addition to being familiar with Public **Law** 16-46 themselves, have available any handouts or brochures to distribute.
- (3) A proprietor, owner, or operator of an establishment regulated by this Act shall inform persons violating or disregarding the provisions of the Act of the appropriate requirements. Offending persons shall be instructed to cease smoking or relocate or to leave the premises should they refuse to comply.
- (4) Any citizen may report a violation to BEH or the Department of Public Safety to initiate enforcement of the Act;
- (5) An employee or private citizen may bring legal action to **compel** enforcement and may seek injunctive relief to enforce these provisions in any court of competent jurisdiction.

800 CITATIONS, HEARING, AND PENALTIES FOR VIOLATIONS

- (1) BEH shall develop a citation form (which may be part of a general citation form under its other areas of jurisdiction) for the specific purpose of issuing a Citation or Notice of Violation, including any Warning thereof, for violations of Public Law 16-46 by any person, owner, operator, or business entity regulated by law under this chapter. The Citation or Notice of Violation shall, at a minimum, indicate the date, place, time and manner of the violation; **identify** the complaining party; the section of Public **Law** 16-46 **and/or** this chapter violated; a short and plain statement of the factual basis and findings; and a notice to appear for a hearing should the violator wish to dispute the Citation.
- (2) BEH shall designate a Hearing Officer under its existing procedures for any administrative hearings under this chapter. All administrative **hearings** for any citations, shall be coordinated and handled by BEH. Alternately, any proceedings shall be conducted in a manner consistent with the Administrative Procedure Act at 1 CMC Section **9101** et **seq.**
- (3) In addition to the BEH, the Department of Public Safety may issue a Citation or Notice of Violation to any person violating Public **Law** 16-46 or issue any Warning, written or verbal, to any person or business owner or operator and provide a copy of such Citation or Warning to BEH. All citations shall be heard by the BEH Hearing Officer.
- (4) After hearing, notice, and opportunity to be heard, the BEH Hearing Officer may issue **any** Order, Administrative Penalty or Fine; and other appropriate relief under the statute **as** authorized.
- (5) Any decisions by the BEH Hearing Officer shall be a final agency decision and any aggrieved party may seek judicial review to the CNMI Superior Court.
- (6) If Public Law 16-46, § **3182(c)** is applicable, BEH **and/or** the Department of Public Safety shall refer the matter to the Secretary of the Department of Finance or an authorized designee for possible action pursuant to 4 CMC §5611(g).



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

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EXECUTIVE ORDER 2010-17

DECLARATION OF A STATE OF DISASTER EMERGENCY:

**COMMONWEALTH UTILITIES CORPORATION'S
IMMINENT GENERATION AND OTHER FAILURE AND THE NEED TO
PROVIDE IMMEDIATE RELIABLE POWER, WATER AND WASTEWATER
SERVICES**

CONTINUATION #28

I, ELOY S. INOS, pursuant to the authority vested in me as Acting Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5123 of the Commonwealth Disaster Relief Act of 1979, do hereby declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands due to the inability of the Commonwealth Utilities Corporation (CUC) to provide critical power generation service to the CNMI and the extreme, immediate and imminent threat such condition poses to the Commonwealth of the Northern Mariana Islands.

This Executive Order is intended to, and does, continue in effect portions of the Governor's preceding disaster emergency declarations on this matter, EO 2009-01 through -09, and 11-13, and EO 2010-01 through -06, -08 through -10, and 16, except as specifically modified. As more fully stated below, this Executive Order shall expire on the 31st day following the date of my

signature. The following findings and conclusions further support continuation of the Declaration and issuance of directives.

Table of Contents

DECLARATION OF A STATE OF DISASTER EMERGENCY:.....	<u>Page 1 of 28</u>
FINDINGS.	<u>Page 3 of 28</u>
MANPOWER CRISIS DUE TO RESTRICTIVE LEGISLATION.	<u>Page 3 of 28</u>
Summary.	<u>Page 3 of 28</u>
Background.	<u>Page 3 of 28</u>
Stiffing CUC with the technical experts to permit continued electric service.....	<u>Page 6 of 28</u>
Complying with the federal court order on disposal of used oil.	<u>Page 11 of 28</u>
Complying with the federal court order on managing the water and wastewater systems.	<u>Page 13 of 28</u>
Meeting US District Court and CNMI Public Utilities Commission requirements to produce timely, accurate financial reports.	<u>Page 18 of 28</u>
MANAGEMENT CRISIS IN ABSENCE OF A PROPER BOARD/CEO STRUCTURE.....	<u>Page 20 of 28</u>
Forestalling corporate paralysis.....	<u>Page 20 of 28</u>
Fixing CUC's technical insolvency.	<u>Page 21 of 28</u>
Providing the basis for proper CPUC oversight.	<u>Page 23 of 28</u>
Addressing a critical financial challenge.	<u>Page 23 of 28</u>
CRISIS FROM THE LACK OF LEGISLATIVE ACTION.	<u>Page 25 of 28</u>
CONCLUSION AND ORDER.	<u>Page 25 of 28</u>
DIRECTIVES.	<u>Page 26 of 28</u>
Directive 9 : The Executive Director of CUC shall have all the powers of the CUC Board.	<u>Page 26 of 28</u>
Directive 10 : The following strike-out-formatted language of the quoted provisions of the following statute regulating government employment is, as indicated, suspended	<u>Page 27 of 28</u>

1
2 FINDINGS

3
4 I find that:

5
6 1. All findings and conclusions of EO 2009-01 through -09, and 11-13, and EO 2010-01
7 through -06, and -08 through -10, and 16 are incorporated by reference, except as specifically
8 varied in this Executive Order.

9
10 **II**
11 MANPOWER CRISIS DUE TO RESTRICTIVE LEGISLATION

12
13 2. Summary. A shortage of manpower forced by legislation limiting skilled foreign workers
14 has continued to place CUC operations at risk. Incipient failures in the CUC water, wastewater
15 and power transmission and distribution networks have underscored the importance of having in
16 place a well-funded and functioning preventive maintenance program. Skilled workers and a
17 responsive support system are key to the success of the operations, particularly of preventive
18 maintenance. Presently CNMI law (3 CMC § 4532, as most recently amended by PL 17-1)
19 prohibits CUC from hiring any more non-US technical workers than the skilled professionals
20 recently with CUC. CUC has repeatedly asked the Legislature for relief from this statute
21 regulating the Government's workforce, to no avail. Further, errors in wording in the CUC
22 enabling legislation recently re-enacted, PL 16-17, as amended, would bar the Executive
23 Director from day-to-day management of the corporation, effectively shutting CUC down. This
24 EO eliminates these problems while it is in effect.

25
26 3. **Background.** CUC has substantially minimized the risk of losing the services of its owned
27 generating capacity, which losses created intermittent blackouts on portions of its system. It
28 therefore allowed the Aggreko year-long temporary power contract to terminate, as provided in
29 the agreement, effective September 12, 2009. This saves CUC customers at least \$6 million per
30 year in fees. But it still presents risks, as the strategy requires proper operation and maintenance
31 of CUC's owned engines by CUC's technical staff, and the timely securing of materials and
32 supplies.

33
34 4. CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction
35 of the US District Court and the US EPA, pursuant to two sets of consent, or "stipulated", orders.

- 36
37
38 a. The first requires the upgrade and smooth functioning in virtually all aspects of
39 CUC's water and wastewater divisions. The second requires CUC to properly
40 eliminate over 400,000 gallons of used oil and to institute measures to avoid
41 uncontrolled buildup of such inventories. Failure to meet the requirements of the

1 federal court orders could subject CUC and the CNMI to substantial fines and
2 charges, and, in the extreme, to a federal takeover of their finances. Presently
3 CUC is "accruing" substantial fines. Most of the fines have not been levied; but
4 they could be. The EPA has, however, levied two fines, in the amount of \$29,000
5 and \$140,000 (June 2010 letter).

6
7 b. On February 24, 2010, the US District Court entered an additional stipulated
8 order. It provided, among other things, that a professionally-developed Interim
9 Financial Plan ("IFP") would be provided to the US EPA within 30 days, by
10 March 26, 2010. The **final** version of that document must be filed by November
11 30, 2010. This additional stipulation requires CUC to meet a number of
12 deadlines, each involving the application of technical expertise. CUC has **timely**
13 filed the IFP. It now has the task of implementing the **IFP** and meeting these
14 deadlines. Failure to meet these requirements would subject CUC to the
15 described sanctions.

16
17 c. Of concern to CUC are the tight deadlines for Stipulated Order 2 (Oil
18 Management) projects that are funded by a \$4.05 million **CIP** grant awarded in
19 February, 2010, by the US Department of the Interior's **Office of Insular Affairs**.
20 The funding is to assist CUC is disposing of the used waste oil discussed in this
21 Executive Order. Failure to meet the deadlines could subject CUC to additional
22 EPA sanctions.

23
24 d. The coordination of the approvals from the various agencies calls for a responsive
25 procurement system at CUC, including the trained technical staff to implement
26 the system.

27
28 5. CUC is thoroughly regulated by the Commonwealth Public Utilities Commission ("CPUC").
29 The regulator has plenary power over CUC rates, charges, fees, operations and capital
30 investments. CUC's failure to timely and competently meet CPUC orders and other
31 requirements can result in severe rate discipline, and fines and other penalties. For example, the
32 Commission required CUC to meet certain requirements, including the filing of a technically
33 complex rate case (Docket No. 10-01) by the end of January 2010, or face fines of **\$500** per day.
34 CUC was required to file an additional, complex electric power rate case in the fall of 2010. It
35 filed the case on November 10, 2010.

36
37 6. CUC is the sole electricity supplier to the Government of the **CNMI**, including all public
38 safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the
39 **CNMI's** businesses and homes. While some businesses and agencies own backup generators,
40 they are not generally organized to use the backups **as** permanent power sources; and the diesel

1 oil purchased to run these generators is substantially more expensive than that used for CUC
2 power.

3
4 7. Without CUC electricity:

- 5
6 a. most CNMI economic activity would come to a halt, the courts would soon close,
7 much refrigeration and air conditioning would end, and the airports and ports
8 would be forced to rely on emergency generation and the limited, expensive oil
9 supply for it;
- 10
11 b. the CNMI's health and safety would immediately be at risk, since traffic signals
12 and street lighting would cease to function, emergency, fire and police facilities
13 and their communications systems, and the Hospital and island clinics would have
14 to rely on limited oil supplies for emergency generation and then cease
15 functioning, much refrigeration of food and medicines would end, as would air
16 conditioning for the elderly and medically fragile;
- 17
18 c. the public schools and the Northern Marianas College would close. Other
19 educational institutions would close as their backup oil supplies for emergency
20 generators were exhausted; and
- 21
22 d. water and sewage treatment would soon end. One of CUC's largest electric
23 customers is the combined CUC Water and Wastewater Divisions. CUC is the
24 sole supplier of electricity for these systems. CUC's water system relies on
25 electricity to maintain the system pressure needed to avoid the backflow of
26 pathogens, to chlorinate, and to pump, store and to distribute water supplies.
27 CUC's wastewater system requires electricity to collect, pump, process, treat and
28 discharge sewage. The lack of electricity could result in sewage overflows,
29 contamination of land and water and rendering unsafe the CNMI's beaches,
30 which are also principal tourist destinations.

31
32 8. As discussed below, CUC is currently advertising for about 20 vacancies, including the
33 Executive Director, the Water Distribution Manager, the Wastewater Manager, five engineers, a
34 general counsel, an internal auditor, a grants writer and/or a grants specialist, two wastewater
35 level 2 treatment operators, two wastewater level 2 collection operators, and two water treatment
36 /distribution levels 1 and 2 operators for Rota. CUC also seeks to renew 18 technical and
37 professional contracts for non-US citizens. Without these positions filled CUC's operations
38 would be severely compromised.



1 Staffing CUC with the technical experts to permit continued electric service

2
3 9. CUC continues to maintain and rehabilitate its owned power plants. CUC tries to maintain
4 and rehabilitate the operating units to adequately meet load. CUC has secured federal funds to
5 buy many needed parts to avoid outages. CUC began the needed overhaul of PP #1 unit DE-5 in
6 September 2009. In October 2009 four other units began required overhaul, a 12-month
7 program.

8
9 10. In November 2009, the following work started: The critical replacement of the PP #1
10 anchor bolts, in order to stop the shifting and vibration that has **ruined** the plant; and foundation
11 repairs to Engines 1 and 8. Shortly thereafter the replacement of **turbochargers** and oil-water
12 separators began. **All** of this work has been essential.

13
14 11. This work has been successful. Power Plant 1 Engines 1, 2, 3, 5, 6, 7 are available. Engine
15 8's critical foundation repair and anchor bolt replacement have been completed. The major
16 engine overhaul is under way, to finish by the end of 2010..

17
18 12. In effect, CUC **management**, with generous federal financial assistance, has brought its
19 generation back **from** the brink of system failure. There are adequate reserves. If maintained
20 properly, the system can provide the CNMI's citizens and residents with adequate power.

21
22 13. Adequate technical staff is essential to this work. **A** major challenge to carrying out this
23 rehabilitation has been **finding** the trained technicians needed to carry out these rehabilitation
24 projects, and maintain and run the equipment. The technicians must be ready for service when
25 needed and their services must be affordable. Any significant reduction in **CUC's** present
26 technical workforce could seriously compromise **CUC's** ability to generate and distribute power.
27 Therefore, in November 2010 management interviewed 5 more foreign trade technicians to
28 replace technicians who had resigned or were terminated. Also, CUC hired 7 trade assistants, all
29 US citizens, who were converted ~~from~~ contract to career service employee trade technicians.

30
31 14. With respect to CUC's lines, equipment used by CUC's Transmission and Distribution unit
32 ("T & D"), including many vehicles, is dilapidated and unsafe. There is an insufficient number
33 of skilled workers to operate T & D. The linemen must be trained to, and skillful in, meeting US
34 standards. Fortunately, a federal DOI/OIA grant paid for some lineman training in June. The
35 critical upcoming projects in T & D include the replacement of the antiquated, rundown and
36 unsafe vehicle fleet; the redesign of T & D using national Rural Utility Service standards; the
37 replacement/installation of insulators, transformers, overcurrent protection, **sectionalizers** and
38 the installation of efficient LED street lighting.

39
40 15. For example, **Saipan's** early-September 2009 brush with Typhoon Choi-Wan 15W that
41 passed to the north of Saipan, and typhoon Melor, which passed just north of Saipan in October

1 2009, underscored the extreme vulnerability of CUC's power transmission and distribution
2 system. In September 2009, over 150 calls of no- power and line faults were fielded by crews
3 when, for a storm of this size, there should have been no more than a score. Fortunately, last
4 year's typhoon season ended with no direct hits on the CNMI and the power distribution system.
5 Accelerating improvements to the T & D system ,with proper staff under an Emergency Order,
6 would allow CUC to "harden" the system in anticipation of a bigger storm event. The
7 alternative, in a more serious storm, is CUC's inability to recover in any reasonable time period.
8 The year 2010 has seen no problems of concern from the typhoon season.

9
10 16. In 2010 outages due to Power Transmission & Distribution have been extremely low: May
11 saw only 11 minutes; April just one minute. These are the lowest such figures in the last seven
12 years, reflecting an extraordinary accomplishment for an understaffed, overworked CUC work
13 group.

14
15 17. Utility industry safety margins for isolated, island systems typically require a reserve equal
16 to the capacity of the two largest generating units. In CUC's case this would be another 15 MW
17 of load, equivalent to the departed Aggreko temporary units. Meeting this reserve requirement
18 means CUC must have an adequate repair and maintenance staff.

19
20 18. The Legislature, through PL 17-1 (Mar. 22,2010), has limited CUC's ability to hire
21 technical staff; eliminating prior statutory permission to hire up to 19 foreign workers, and
22 reinstating a moratorium on the Government's hiring of foreign nationals, even if needed for
23 highly technical positions for which no local or Mainland citizens are available. The CUC Act,
24 as subsequently re-enacted by PL 16-17 (Oct 1, 2008), provides that CUC shall hire such persons
25 as are necessary for operations, *except as otherwise limited by other law.* 4 CMC § 8123(h).

26
27 19. PMIC at PP #4 and Telesource on Tinian, and the Rota Resort on Rota, as Independent
28 Power Producers (IPPs), are not subject to the Legislature's limitation or prohibition on foreign
29 workers. Nor are consulting firms that provide specialty utility industry services.

30
31 20. There are not enough US-citizen or US-resident technical specialists at CUC to get the
32 power generation work done, particularly specialists with experience in the type of engines that
33 CUC uses. CUC believes that the vast majority of skill sets must come from non-US personnel.

34
35 21. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding
36 all the qualified candidates. In the summer of 2009 CUC identified 16 potential new staff after
37 interviews – 7 mechanics, 1 welder, 1 machinist, and 7 operators. Two of the operator
38 candidates were US citizens.

39
40 22. CUC has hired some local staff in time thanks to the aggressive steps of CUC HR, the
41 Executive Director and earlier versions of Directive 10. But hiring qualified technical experts

1 from the pool of US citizens and permanent residents is extremely **difficult** due to the CNMI's
2 competitive disadvantages, including **salary/benefit** packages and the distance **from the**
3 Mainland. For instance, in October 2010 the top candidate for Manager of Drinking Water &
4 Wastewater turned down CUC's offer. The targeted recruit for the Health, Safety and
5 Environment Officer also turned down a **CUC** offer. This month, November 2010, CUC's Oil
6 Manager resigned. The challenge to CUC is that it is recruiting for positions from a US labor
7 pool in which the targeted candidates are already gainfully employed, as opposed to the other
8 professionals in other segments of the US economy. For instance, one of CUC's own local
9 employees, a supervisor in Wastewater, moved to Oregon early in 2010 and was soon hired by
10 the local wastewater & water district.

11
12 23. CUC has hired **skilled** trade technicians needed on Saipan for power plant operations and
13 maintenance. For Rota, CUC announced the need for a mechanic-operator and an electrical
14 operator. As **more** units begin working after the power plant rehabilitations are largely
15 complete, CUC will need more staff to operate and maintain them. For the foreseeable **future**,
16 CUC needs to maintain its complement of skilled workers. **In the meantime**, CUC continues to
17 work with the Northern Marianas Trade Institute ("NMTI") to **find** local trainees, part of a multi-
18 year apprenticeship program. CUC has had about a dozen of these trainees, but requires fully
19 trained, experienced technicians to keep the power plants running.

20
21 24. With generous grant **funding** and the use of in-house technical specialists and outside
22 contractors, CUC has undertaken substantial rehabilitation of its power system. Future projects
23 include replacing turbochargers, conserving and reclaiming used lube and waste oil, retrofitting
24 streetlights with low-wattage **LED's**, and restoring power generation and adequate distribution
25 on Rota. Even if contractors do the work, CUC technical **staff** must research and prepare bid
26 documents, review technical proposals, and oversee the work.

27
28 25. The bottom line on CUC's technical work has been a substantial increase in reliability,
29 specifically the availability of CUC's generation. CUC's transmission and distribution has
30 similarly improved – January 2010 saw 10 hours 44 minutes of outages, April 2010 saw one
31 minute. It was critical to this latter improvement that CUC had the **skilled**, trained work force to
32 maintain power lines.

33
34 26. But even as power becomes more reliable, CUC must employ technical experts to reduce its
35 distribution losses (electricity that CUC "loses", and does not bill to identified customers, means
36 that all customers must pay for it) . With world oil prices increasing CUC's power costs, such
37 losses have accounted roughly for \$4.8 million annually, which CNMI customers must cover.
38 CUC requires a team of skilled technicians to **find** and eliminate power theft and line losses.
39 CUC has assembled electrical crews from power generation to help Power T & D with Operation
40 Sweep. The electrical crews also help with the electrical wiring or re-wiring and make it easier
41 for the meter technicians to perform their job of meter installation. CUC crews are also speeding

1 up the installation of Watt-hour meters for all water and wastewater facilities, as ordered by the
2 CPUC.
3

4 27. All of this activity will cut costs **and/or** properly allocate them, removing pressure on rates.
5 For example, line losses continue to fall. For year 2009 CUC's power utility consultant recently
6 found that the line losses were 15%. But for calendar year 2010 through October the losses
7 dropped to 10%. One reason is that CUC's staff technical experts determined the proper charges
8 for many commercial customers, correcting meter multipliers. Secondly, Operation Sweep
9 began in earnest in February 2010. Operation Sweep audited the Watt-hour meters and service
10 connections to the densely populated and commercial areas of Saipan. Of the 1,000 services
11 inspected, 100 were found to have tampered meters or bypasses. CUC corrected all of these
12 immediately. The police and attorney general's office are pursuing prosecution of power theft.
13

14 Ⓔ

15 28. The impact of an inadequate workforce would be five-fold:
16

- 17 a. First, there would be a direct negative effect on the existing consumers. There
18 would be brownouts, or area blackouts, with the above-mentioned loss of service.
19
- 20 b. Second, the power plants would again degrade, producing more of these outages.
21
- 22 c. Third, there would be **an** indirect effect, increasing rates over the longer term,
23 because small consumers would have to shoulder more of the **fixed** costs of the
24 CUC system. First, there would be loss of large customers. By contrast, if the
25 hotels were to become part of the system, they could help pay CUC fixed costs,
26 which would lower everyone else's rates. The hotels need reliable, 24/7 power.
27 But with unreliable power, CUC would be unable to convince large commercial
28 customers, particularly the hotels, to join, or rejoin, its system. Second, would
29 come additional expenses. If CUC fails to meet federal court deadlines for the
30 stipulated orders, the Court could appoint a federal receiver and its consulting
31 team – with all expenses charged to CUC customers. The EPA has already
32 imposed stipulated order penalties; it recently required the payment of a \$140,000
33 penalty. Thus, the indirect effect of an inadequate workforce would be to boost
34 rates.
35
- 36 d. Fourth, the loss of CUC's technical experts would shut down, or, at least, cripple
37 the company's increasingly successful efforts to cut losses, particularly theft of
38 service.
39
- 40 e. Fifth, with the recovery of the world economy, advise CUC experts, oil prices can
41 be expected to rise. If CUC's generators become less efficient, because technical

1 staff are unavailable to maintain CUC's engines' **efficiency**, that much more oil
2 would be needed to generate a given amount of electricity. The price rise will
3 thereby harm CUC's customers and electricity-dependent services with higher
4 rates. (Unfortunately, the mid-September 2010 CUC and CPUC experts'
5 estimates of flat oil prices over the following six months has proven optimistic, so
6 that LEAC fuel rates are presently about 10% below costs.)
7

8 29. Rota's status today is precarious and financially un-sustainable. Rota has suffered blackouts
9 ~~from~~ inadequate generator maintenance. The power plant's other facilities and the island's
10 distribution system similarly need the attentions of additional manpower. The Rota power plant
11 needed additional generating sets to come on line, as there are only 1.5 dependable sets in the
12 plant. The third of two feeders was, until June 2010, powered by the Rota Resort, a private
13 resort, at a cost of \$200,000/month to CUC. The revenues to CUC ~~from~~ the customers on this
14 feeder fall far below this cost. CUC has negotiated with a Mainland supplier for a new
15 generating set, with funding ~~from~~ the US Department of the Interior. The alternative for Rota
16 was akin to Saipan's recent Aggreko situation – purchasing higher cost, reliable power ~~from~~ the
17 Rota Resort. Therefore, in June 2010, two 0.9 MW Cummins generating sets were transported
18 ~~from~~ Power Plant 4 on Saipan to Rota in order to augment the power generation. These two
19 generating sets were commissioned by the end of July, 2010.
20

21 30. Since EO 2009-8 and the more recent suspension of the **harmful** legislative employment
22 restriction, CUC has taken steps to hire the expertise to operate and maintain the Saipan and
23 Rota power generation facilities. CUC needs to be able to hire the workers it needs when it
24 needs them. Otherwise, if CUC had to discharge these workers, its **staffing** levels would return
25 to those which overworked its limited staff. For example, over pay period numbers 2 through 11
26 of the year 2009, CUC accumulated 18,053 hours of overtime ~~from~~ technical employees who
27 each worked 40 or more hours of overtime in a pay period. This condition is extreme, and a
28 repeat can result in **inefficiencies** and poor work quality. It can lead to dangerous mistakes,
29 producing injury or death.
30

31 31. CUC has repeatedly asked the Legislature to lift the restrictions on foreign workers. The
32 Legislature has failed to act on the CUC request. Without relief, this inaction will effectively set
33 the stage for loss of service and higher rates. Among other things it will thereby reverse the \$6
34 million-per-year benefit of terminating the Aggreko temporary power contract.
35

36 32. CUC points out that the power distribution system is highly vulnerable because, like the
37 sewer system, so much of the maintenance and replacement was deferred for one reason or
38 another over the past 20 years. Since 1995, 26 villages on Saipan were identified as needing
39 major improvements to the power lines; only five have seen those improvements. Power T & D
40 fails in bits and pieces. One of the big pieces that failed in February 2010 was one of 12
41 termination cables on the Kiya Substation (Transformer One). A power outage to the southern

1 parts of Saipan lasted ~~from~~ one to five hours. CUC management states that the excellent
2 response from the crews in both Power Generation and Power T & D demonstrated the
3 importance of having skilled workers. The top two engineers were non-residents. Without this
4 EO in place, given present statutes, it is unlikely CUC would be able to secure the services of
5 such valuable individuals.

6
7 33. The extended dry season this year (see below) meant that vegetation needed to be cleared
8 away ~~from~~ the lines early and often. Brush fires can damage the power lines, telephone
9 facilities, and television cables. Tree-trimming was also necessary to protect lines ~~from~~ the
10 effects of high winds. Meanwhile, CUC crews must replace failing insulator bolts and failing
11 switches in order ~~to~~ avoid distribution-related power outages.

12
13 34. CUC has demonstrated that the required workers are available as nonresident workers, and
14 cost-effectively so. ~~In~~ the last months it was able to renew the contracts for approximately two
15 dozen essential foreign expert workers, thereby sustaining the integrity of CUC's systems. Thus,
16 continued relief ~~from~~ the legislative prohibition of hiring foreign national workers is necessary to
17 ensure the delivery of uninterrupted power services to the people of the Commonwealth.



20 **Complying with the federal court order on disposal of used oil**

21
22 35. CUC has taken concrete steps to address the storage and disposal of used oil, consonant
23 with the federal court's Stip Order 2. Federal court Stipulated Order 2 relates to the used oil
24 from the engines for four facilities (Power Plants 1, 3, 4 and Rota) and all CUC transformers.
25 *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order 2"). With an
26 adequate complement of trained technical employees, complemented by expert contractors, CUC
27 believes that it can meet the Stip Order requirements. On August 12, 2010, the Court issued the
28 Second Joint Stipulation ("SJS"), which replaced many otherwise unattainable deadlines, but
29 provided other deadlines and stiff penalties for a host of technical and management positions.
30 The SJS also provided for firm dates for reporting on the use of grant funds, on the progress of
31 secondary containment facilities, providing a facilities response plan ("FRP"), and cleaning out
32 Tank 104.

33
34 36. A September 2009 inspection by the US Coast Guard (USCG) resulted in the imposition of
35 another cost that was unanticipated even with Stip Order 2. The USCG now requires additional
36 and more stringent measures to contain or eliminate the possibility of any oil reaching the ocean
37 from Power Plants 1, 2 and the power plant on Rota. Further, as of October 2009, CUC has
38 faced the following staffing needs in this ~~area~~. It critically needs the resources to inspect and
39 redesign the entire fuel storage, pumping and handling system in order to meet the more
40 stringent requirements of today. The clean fuel storage tanks at Lower Base were originally
41 designed for another application. The ~~fuel~~ line from the oil company's terminal is in danger of

1 rupturing during a transfer; the pumping rate has to be **reduced** to prevent this. Fixing all of this
2 requires trained CUC staff.
3

4 37. Serious deficiencies in the waste oil handling system at Lower Base have come to light in
5 the past year and are being addressed by both CUC and EPA. One deficiency is that the oily
6 water separators were not functioning as such because of the excessive amount of oil (as
7 opposed to water) entering the system. As a result, oil was spilling onto the ground rather than
8 being separated and skimmed off properly. Power Plant #1 has been sealed off to prevent any
9 waste oil from leaving the plant and flowing into the oily water separators. To prevent oil **from**
10 accumulating uncontained in the plant itself, emergency measures have been taken to store waste
11 oil and to fabricate above-ground **tanks**. The oily water separators, pipes, holding tanks, and
12 baffles are being cleaned out so that the entire system can be carefully inspected and
13 re-engineered. **All** of the additional work is expensive. Regardless of who does the work
14 initially, CUC staff, EPA contractors, or a combination thereof, CUC requires **skilled**, trained
15 workers for the clean-up. Failure to correct this situation could harm the nearby environment,
16 CUC's ability to generate electricity properly, and the assurances given pursuant to Stip Order 2.
17 CUC hired an Oil Technical Manager, but he turned in his resignation in November 2010.
18

19 38. Incinerators play a crucial role in helping CUC meet Stip Order 2. After substantial
20 progress in removing and incinerating **Tank 104** oil in the year 2010, the rate dropped
21 substantially, as the remaining oil proved to be more like grease. This EO has permitted Power
22 Generation the flexibility of hiring skilled non-US-citizens to not only repair and overhaul the
23 generating sets, but to **fix** and **supervise** such important auxiliary equipment as the incinerators.
24 CUC technical staff, with EPA help, solved the slowdown.
25

26 39. The EPA on February 18, 2010, filed a status report with the US District Court for the
27 Northern **Mariana** Islands which was highly critical of the progress in **CUC's** efforts to comply
28 with Stip Order 2's requirements to solve the used oil situation. Since that report CUC has
29 contracted with the **GRESKO** firm to remove waste oil **from** Tank 104. The EPA strongly urged
30 CUC to accelerate the removal. CUC found two additional special double-walled "ISO" **tanks**
31 for use in the project, to add capacity to the contractor's six tanks. As a result, **GRESKO**
32 transferred just under 180,000 gallons of used oil to Guam by July 15. But, with success came
33 additional technical difficulties, as the remaining 70,000 gallons of oil became more
34 concentrated, and grease-like, and, therefore, increasingly difficult to pump out. However, after
35 CUC engineers tested methods of incineration, with EPA help, the incineration resumed **at**
36 a faster pace, and CUC believes that it will clean the tank out by February 2011.
37

38 40. Presently CUC is in process on these specific efforts to comply with Stip Order 2's
39 requirements, with federal funding authorized: Technical Manager secured for the oil disposal
40 management position; secondary containment (new and repair) has received permits and NEPA
41 clearance, and construction has begun; oil disposal for **Saipan's** Tank 104; oil transfer pipeline

1 for Lower Base design work commenced, construction contract under review by CPUC, with a
2 target in-service date of February 24, 2011; oil handling and training commenced; used oil
3 sampling laboratory in California contracted; used oil tank system integrity testing and
4 cleanout's RFP published; oil-water separators in planning stage; the section of the facility
5 response plan ("FRP") which provides services for oil spills from a new Saipan-based firm has
6 been executed and approved by the CPUC.



10 **Complying with the federal court order on managing the water and wastewater systems**

11
12 41. As long as the Water and Wastewater Divisions can hire competent staff and receive power
13 from the Power Division, they can function.

14
15 42. The U.S. Department of Justice ("DoJ"), Environment and Natural Resources Division, has
16 sued CUC in federal court to come into compliance with critical water and sewage treatment
17 requirements. *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order
18 1"). *See also* http://www.usdoj.gov/enrd/Consent_Decrees.html. In July 2008 CUC, the CNMI
19 and (in September 2008) the U.S. Environmental Protection Agency ("EPA") stipulated to this
20 first of two orders lodged with the U.S. District Court on the date the Complaint was filed. This
21 order requires CUC to implement a series of improvements to its water and wastewater systems
22 that respond to years of neglect, for which it presently lacks the funds and the complete technical
23 capability. On August 12, 2010, the Court issued the Second Joint Stipulation ("SJS"), which
24 replaced many otherwise unattainable deadlines, but provided other deadlines and stiff penalties
25 for a host of technical and management positions. The SJS also provided for firm dates for an
26 Interim Financial Plan, Reorganization Plan, full metering and billing, a complete chlorination
27 and disinfection program, the hiring of qualified operators in direct responsible charge ("DRC"),
28 and procedures to generate the scope of work for CUC's Master Plan.

29
30 43. Sewage collection piping failures are continuing at an accelerated rate. The Wastewater
31 Division must respond to acid damage in the asbestos cement piping system, the product of over
32 30 years of anaerobic conditions in sewers. This has caused significant damage to cement and
33 metal infrastructure, so that key pipe systems have collapsed. Replacement involves complex
34 excavations, avoiding electric, phone and water utilities, blocking traffic, stopping the infiltration
35 of seawater (which damages treatment plant facilities), and pumping sewage around blocked and
36 excavated areas. The Division has already far exceeded its repair budget. Without this EO, says
37 CUC, procurement for such repair work would constitute a significant impediment.

38
39 44. Providing and improving water service presents new challenges. With DEQ's classification
40 of Rota's cave-based domestic water as "surface water" CUC has had to expand water quality
41 monitoring and testing, requiring more manpower and more equipment. In May 2010, CUC

1 experienced failures in water pipes as the Cross-Island road project's contractors' equipment
2 broke pipes, requiring CUC staff to be pulled from other jobs, with required equipment, to
3 address the emergency. In addition, a substantial section of the As Terlaje sewer line collapsed,
4 requiring an emergency procurement to hire an outside firm to make the repair. As of October
5 15, 2010, repair work reached 90 % completion.

6
7 45. The Sadog Tasi Wastewater Treatment Plant is undergoing long-planned rehabilitation.
8 But, without such redundant equipment as a clarifier, CUC must devote extra resources to the
9 facility while the contractor repairs the only unit. Such work has to be conducted with strict
10 parameters by properly trained technicians to prevent contamination of the environment. Due to
11 equipment malfunctions, sludge is not pressed, which may have produced unacceptably high
12 recent levels of enterococci in effluents from both the Sadog Tasi and Agingan Point treatment
13 plants.

14
15 46. The Division also needs serviceable vehicles to move its workers to and from job sites.
16 Presently six vehicles are in such bad shape that they are dangerous. The resulting reduced
17 vehicle problem raises costs and hurts service, as staff and materials cannot be brought to job
18 sites on time. Starting in September 2010, CUC has had to rent vehicles in order to get its crews
19 to trouble areas. Even more alarming is that during the past months both of the CUC-owned
20 backhoes (one for Water Operations, and one for Wastewater Operations) have been broken,
21 gone out of service, and await repair parts. CUC has had to rent backhoes for simply performing
22 routine water and wastewater operations functions on a daily basis during the past month.

23
24 47. Sewage lift station failures continue, requiring CUC crews to install newly received pumps.
25 Approximately 17 of the 45 CUC sewage lift station are in poor condition and require significant
26 rehabilitation. CUC anticipates an EPA grant for the rehabilitation of these lift stations. But that
27 construction will not occur for approximately one year. In July there was a sewer blockage in
28 the CK and Susupe areas, and CUC lacked the equipment to repair it; its usual contractor also
29 suffered equipment problems.

30
31 48. CUC engineer staff shortages continue to hamper CUC's ability to anticipate and fix
32 technical problems. CUC's Water/Wastewater Division needed to add engineers to its staff of
33 three engineers, in order to fix the poor condition of the CUC sanitation assets. Significant
34 engineering resources have been focused on addressing EPA Stip Order issues. These issues
35 include staffing plans, pre-treatment programs, materials management programs, customer
36 inventory, and cross-connection control programs. CUC water and wastewater engineers are the
37 lead professionals on several on-going construction projects, which also stretches the limited
38 engineering resources. These include the Well Isolation Project, Sadog Tasi Sewer Plant
39 Rehabilitation, and Agingan Sewage Treatment Plant Rehabilitation. Recruitment and retention
40 of engineering staff to meet these challenges is difficult.

41

1 49. Nonetheless, CUC engineering and operations departments hired 4 new engineers these past
2 months, with one engineer assigned to the wastewater projects grants and construction
3 management, one assigned to design, one to water operations, and one to wastewater operations.
4 However, given the extensive engineering department workload many more engineer staff
5 members are still needed. CUC has just hired another, with the employee scheduled to arrive in
6 January 2011.

7 **■**
8 50. Incipient failures include the failure of 98 submersible pumps in the water system over a
9 period of 12 months. Higher grade stainless steel grates have to be specified that are resistant to
10 pitting. The pitting causes the grates to fail, and consequently the pump motors fail. CUC has
11 had to purchase higher quality equipment, rather than the cheap units that fail prematurely.
12 Motor protection continues to be challenging. During September 2010 one of the newly
13 installed 30 HP motors with the higher grade stainless steel was damaged by an apparent lighting
14 strike after only a month's operation.

15
16 51. CUC must be able to hire the staff to perform the required technical functions. But CUC
17 has found that, regardless of salary levels, a nationwide shortage of such techs requires that it
18 look overseas. The Water and Wastewater Divisions cannot carry out their missions without
19 adequate staff; the EPA requires adequate technical staff. These staff are essential to producing
20 clean, safe water supplies and removal of stormwater and sewage in a safe, timely manner.
21 While the bulk of CUC employees are drawn from local and US populations, the Division
22 management estimates that at least six trained technicians will be required – three experienced
23 Level 3 wastewater treatment operators, two Level 3 wastewater collections operators, and an
24 instrumentation/low voltage controls specialist. CUC lacks enough experienced plumbers and
25 pipe-fitters. Skilled pipe-fitters are needed to repair failing CUC piping and related
26 **infrastructure**, such as valves and hydrants. An experienced **Water/Wastewater** Division
27 operations manager is required. CUC requires a chemist to meet federal requirements, but has
28 been unable to find a qualified one in the local population, or a cost-effective professional from
29 the US Mainland. CUC announced a vacancy of the position for Deputy Director for Water and
30 Wastewater, and has been interviewing candidates. CUC must hire this professional soon in
31 order to meet EPA requirements.


32
33 52. There have been special reasons why the water system had to be adequately staffed and
34 maintained this year. This was an El Nino year, and water was relatively scarce. As predicted in
35 the Pacific ENSO bulletin forecast back in February 1,2010, the CNMI dry season brought
36 below normal rainfalls into June 2010. CUC went into an emergency mode, conserving water,
37 accelerating water line replacements, and locating and repairing leaks. There was greater danger
38 of fires this year, with less water available to fight them. For Capital Hill, the drought and a tank
39 rehabilitation project required that the distribution system in this area be reconfigured in June
40 2010 in order to supply water at least two hours per day to Wireless Ridge. Upper reaches of
41 Navy Hill were without water for several days until leaks were repaired. With the rainy season

1 the aquifers are **only** slowly replenished. As a result Garapan saw fewer hours of water service.
2 Unfortunately, the leaks were noted several months before, but lack of manpower and funds
3 prevented the pressurization required for leak repair. In July the **Kagman** booster pump failed,
4 and until it is replaced the **Papago** area will see less water delivered.

5
6 53. Recently CUC suffered severe setbacks in its ability to supply water and to **develop** a
7 system for 24/7 water supply. For example, CUC has not been able to serve San Jose under
8 standard "Water Watch" scheduled valve opening practice. There had to be a second **opening** of
9 the Kannat Tabla tank in mid-September 2010 in order to provide **San** Jose two hours of water in
10 one week. But this second opening of Kannat Tabla for **San** Jose created conditions that would
11 impede opening the next day **from** the Kannat Tabla **tank** for Chalan **LauLau** and Southern
12 Garapan. Also, September 2010 saw system water leaks, and pump and motor failures. CUC
13 nearly failed to provide water to the Tanapag School on the first day of classes, and to the San
14 Roque and **Oleai** Schools in mid-September 2010.

15
16 54. CUC continues to suffer an unprecedented number of waterline **breaks** and resultant water
17 leaks.

- 18
19 a. During one day in September 2010 there were six new leaks reported which
20 required repair crews to work significant overtime. All repair work was
21 performed using rental backhoes, as **CUC's** backhoes were broken.
22
23 b. A 16" PVC waterline ruptured on As **Terlaje** Hill on the morning of October 23,
24 2010, at approximately 4:00 am. **An** entire length of 16" PVC piping ruptured,
25 resulting in the loss of the Kannat Tabla Tank water volume contents, and
26 producing significant damage to the As Terlaje Hill Roadway. The water rupture
27 resulted in a cost to CUC of approximately \$100,000, of which asphalt repair
28 alone was over \$87,000. The specific cause of the waterline rupture has not been
29 **determined**, but CUC believes it was likely a result of improper installation and
30 fatigued **infrastructure**.
31
32 c. CUC professionals consider that the number of leaks the company experiences to
33 be excessive, particularly because CUC does not provide 24-hour water and does
34 not properly pressurize the water system. These leak repair projects stress
35 CUC's limited staff and finances.

36
37  55. Put simply, Saipan does not have enough water. CUC professionals categorize much of the
38 Saipan water distribution system as "fatigued". The do not believe that the number of breaks in
39 the system will decline in the foreseeable future. Pump and motor problems perpetuate the
40

1 problem. There were 13 pumps down in October 2010, including four big ones (over 30 hp).
2 CUC's water system in mid-September 2010 experienced several pump/motor failures.
3

4 56. Meanwhile, CUC must install meters to meet the requirements of federal Stipulated Order
5 #1, the CPUC, and its own need for system revenue. Water metering and billing of customer
6 water usage by volume continues to be a challenge for CUC. The water meters installed in the
7 Saipan water system over the past five years have experienced nearly complete failure. Nearly
8 10,000 water meters by serial number have been reported to the Water Task Force ("WTF") by
9 CUC as failed. The WTF, in turn, has reported these meters to the manufacturer for warranty
10 purposes. While CUC has made huge strides in the past months with replacing approximately
11 1,000 broken meters with warranty supplied meters, and reducing the number of customers
12 whose water bills are *not* based on consumption to 3,117 (as of Nov. 13, 2010), there are still
13 many customer meters to address. Compounding the challenge, CUC recently experienced
14 nearly 400 water meter failures of the warranty meters provided by the manufacturer as
15 replacement meters. The manufacturer has begun to indicate opposition to providing more
16 replacements.
17

18 57. CUC lacks water staff and recently lost staff. CUC's water & wastewater workforce is
19 shrinking. It takes a long time to recruit. Sadly, one of CUC's "Water Watch" supervisors died
20 suddenly in mid-September 2010. Skeleton crews are handling system repairs. Having access to
21 foreign skilled and semi-skilled technicians and trades people is critical, as with CUC's Power
22 Division's generation operations. CUC's foreign contract employees have good formal training
23 and education, and they show up to work religiously, in order to provide the services our
24 population requires.
25

26 58. For its water and wastewater businesses, CUC has tried to hire water and wastewater
27 certified operators. There has not been enough interest by qualified professionals. But CUC
28 must hire such technical staff in order to comply with stiff EPA requirements, as expressed in the
29 latest version of the Stipulated Orders. Those professionals whom CUC can identify – more
30 likely these are foreign nationals – do not necessarily have the skill sets needed to actually
31 perform the skilled hands-on tasks of operating a utility. Thus, CUC will be looking for
32 plumber/pipefitters and mechanics (including a master who is skilled in maintaining and fixing
33 hydraulic systems on heavy equipment), specialized electricians and others. Having these skills
34 in-house, instead of at contracted local shops can save enormous amounts of money, as well.
35 While in the long run these CUC needs provide opportunities for locals who wish to stay on our
36 islands, CUC's needs, including the federal requirements, are immediate.
37

38 59. CUC also requires a constant supply of electricity to run its water and wastewater treatment
39 systems. CUC has very limited on-site emergency generation capability, and for only portions
40 of these systems.
41

1 60. Meanwhile CUC continues to pay for power, chlorine, lab testing costs, and repairing
2 collapsing sewer lines. CUC has hired a consulting team to assist it in achieving full cost
3 recovery for the water and wastewater systems through the processes of the CPUC. CUC filed a
4 wastewater rate increase request, complete with hundreds of pages of written expert witness
5 testimony and technical support, on January 31,2010. The Commission addressed the filing on
6 May 28,2010, authorizing a June 21,2010, rate increase in wastewater rates and full cost
7 recovery for the electric costs of the water and wastewater divisions.
8

9 61. Nonetheless, the EPA on July 21,2010, filed a status report with the US District Court for
10 the Northern Mariana Islands which was highly critical of the progress of CUC's efforts to
11 comply with Stip Order 1's requirements to solve the water and wastewater situations. It
12 included a statement that tests in June and July each showed violation of the maximum
13 contaminant level drinking water standard for total coliform bacteria. (7-21-10 Status Report, p
14 6 fn 5) The Court held a hearing which began on August 5,2010, and continued for five days
15 until a Second Joint Stipulation ("SJS") was reached and executed by the DOJ/EPA, CUC and
16 the Attorney General on behalf of the CNMI.
17

18 
19 **Meeting US District Court and CNMI Public Utilities Commission requirements to**
20 **produce timely, accurate financial reports**
21
22

23 62. The federal Stip Orders require CUC to produce and carry out an Interim Financial Plan,
24 beginning in September, 2009. The "IFP" must develop over time, becoming more than
25 "interim. CUC cannot do this unless it has a staff of trained accounting and other financial
26 experts who can gather data, put the data in the required form and generate the IFP and its later
27 versions. EPA is reviewing CUC's most recent version of the IFP. CUC must submit its final
28 IFP on or before November 30, 2010.
29

30 63. Further, CUC is comprehensively regulated by the CPUC. The CPUC is charged by statute
31 to oversee carefully CUC's operations and capital expenditures, and to develop rates that fully
32 pay the costs of safely operating CUC's water and wastewater systems.
33

34 64. In electric and water/wastewater orders, of September 3 and November 20,2009, the CPUC
35 addressed CUC's inability to deliver complete on-time financial reports, requiring CUC, in
36 effect, to enhance its staff capability to provide critical regulatory information. (Docket No.'s
37 09-1 and 09-2.) The Commission revisited CUC rates, fees, charges and operations during this
38 year, including in the recent rate case, Docket No. 10-01. CUC's Executive Director was a lead
39 witness in the case, having filed written testimony (on January 31,2010) and supplemental
40 testimony (on April 1,2010).
41

1 65. CUC cannot upgrade its financial and accounting operations unless it has a staff of trained
2 accounting and other financial experts who can gather data, put the data in the required form and
3 generate the required reports and filings with the CPUC, as well as provide the CPUC consulting
4 staff with the data required for their oversight. CUC has obligated itself to provide an updated,
5 compliant Interim Financial Plan and an organizational evaluation, both pursuant to Stip Order 1,
6 to the US District Court, and most recently, according to the August 12,2010, SJS. EPA has yet
7 to approve it.

8
9 66. CUC's procurement system is lengthy and complex. A relic of other decades, with their
10 own challenges, it requires extensive technical experience in specifications and the procurement
11 process, and often must be coordinated with the CNMI's separate procurement procedures,
12 adding months to processes that must respond to the immediate challenges outlined in this
13 Executive Order.

14
15 67. CUC last year lost 2 senior accountants plus a related specialist. The IT and billing
16 department in August 2009 was reduced by one staffer, having advertised for a replacement for 4
17 weeks to no avail. While it appeared that CUC might have to look to employing foreign
18 technical specialists, CUC hired back 2 former accountants in September 2009 and brought a
19 third person aboard in October 2009. All are US citizens. Nonetheless, CUC must have the
20 flexibility to hire competent professionals as needed. CUC is still short-staffed, and needs an
21 accounting assistant, and an accounting specialist. On February 17,2010, CUC's new Chief
22 Financial Officer reported for duty.

23
24 68. CUC's decades-old financial and accounting system computer failed repeatedly during the
25 second half of 2010, including for a complete week. Already-over-committed finance and
26 accounting staff were required to put in days of extra time in hand-recording customer payments
27 and hand-generating bills. CUC bought a reconditioned replacement, which awaits proper
28 software. CUC lacks the in-house expertise to generate the software. Further, in order to
29 "query" its system for CPUC-required financial reports, CUC must depend on its IT manager, a
30 foreign national who programs in SQL.

31
32 69. Nonetheless, the EPA on July 21,2010, filed a status report with the US District Court for
33 the Northern Mariana Islands which was highly critical of the progress in CUC's efforts to
34 comply with Stip Order 2's requirements to provide timely and complete financial and other
35 operating reports and plans.

36
37 70. To summarize: Without properly trained technical staff CUC's ability to supply power is at
38 risk. So is its ability to manage the rest of its systems, including its complex procurement, its
39 finances and accounting. CUC's services could not be adequately staffed without the lifting of
40 the artificial legislative regulation of CUC's workforce, in Directive #10, suspending the

1 limitations on CUC hiring foreign workers. It is obvious that the hiring authority must be
2 continued.

3
4 71. In fact, during July - September 2010 over 18 CUC employment contracts for non-citizen,
5 technical specialists required renewal. Failure to timely renew could have crippled CUC's
6 efforts to provide service and meet federal requirements. More such contracts must be executed.
7 There is no indication that any of the above manpower situation will be resolved in the next
8 month without continuing in effect this EO and Directive #10.

9
10
11 **MANAGEMENT CRISIS IN ABSENCE OF A PROPER BOARD/CEO STRUCTURE**

12
13 72. **Summary.** CUC is a \$70 million-per-year business, critical to the CNMI's economy and
14 the public health. Yet, the recently-renewed statute organizing it places the Board of Directors
15 in the position of day-to-day management of the corporation, and requires a complex mix of
16 technical, geographic and other qualifications for Board membership. There is no Board because
17 it has been impossible to meet these criteria. Without the Board, or its equivalent, CUC cannot
18 take a critical step toward solvency and the ability to borrow to finance its work.

19
20
21 **Forestalling corporate paralysis**

22
23 73. A critical concern is that the CUC Act's constricted scope of authority for the Executive
24 Director, and the complementary daily management by a host of Board volunteers, would
25 paralyze the corporation. This is particularly worrisome in light of the above-listed tasks before
26 CUC.

27
28 74. A careful reading of the CUC Act, PL 16-17, as amended, particularly its sections 4 CMC
29 §§ 8131 (Bd qualifications), 8134 (Bd approval of all "allocations" of money and property), and
30 1 CMC § 8247 (limited daily reimbursement of \$60.00); 4 CMC §§ 8132 (E.D. described), 8133
31 (limited E.D. functions listed), and 8134 (Bd approval of all "allocations" of money and
32 property), demonstrates that the Executive Director is to be left with little more to do than
33 provide reports to a Board of volunteers who are nonetheless to run CUC, a complex \$70
34 million/year corporation, on a day-to-day basis. This includes such decision-making as
35 purchasing materials and supplies, signing paychecks and other checks, hiring staff, assigning
36 work crews, connecting customers, deciding on making repairs, collecting debts, complying with
37 the details of federal Stipulated Orders and CPUC regulatory requirements, making and funding
38 long-term technical power and water/wastewater plans, overseeing filings with the CPUC,
39 including rate cases, and insuring that, on a day-to-day basis, the power and water flow and the
40 sewage is treated.

1 75. Permitting CUC to be managed this way would plunge the CNMI into economic chaos and
2 a public health care crisis, as corporate activity and the CNMI's only hospital's operations
3 ground to a halt – with or without a Board in place. The complex technical problems listed
4 above simply cannot be managed on a day-to-day basis by a group of non-expert volunteers. For
5 example, the Executive Director had to be available to renegotiate CUC's fuel oil contract last
6 year, and insure that **fuel** supplies reached Tinian and Rota, as well as Saipan. Also, as a key
7 witness in the recent CPUC dockets, and in future rate cases, the Executive Director must be
8 enabled to testify in favor of the requested rate increase in order to fully present the required
9 evidence. Finally, the Executive Director's hiring and role was mandated by the US District
10 Court in the Stipulated Orders.

11
12 76. No private or public utility company in the United States runs this way – with a **group of**
13 volunteers managing a \$70-million corporation's day-to-day operations. No other legislature in
14 the United States has **mandated** this form of corporate management for a public utility.

15
16 77. CUC has applied for and become eligible for millions of dollars of US ARRA and
17 Department of the Interior grants, which can substantially benefit the CNMI's **infrastructure**,
18 help meet US EPA and Stipulated Order requirements, and create jobs needed in the CNMI's
19 stressed economy. CUC has been awarded \$11 million in grants **from** the EPA. But developing
20 the grant requests and implementing the grants requires management attention and expertise, part
21 of a professionally-run business organization. CUC has placed its grants out for bid, so that
22 these benefits can start flowing. CUC must evaluate its needs, and hire and contract for the
23 needed technical specialists to manage the grant-funded projects. This requires a corporate
24 structure capable of **making** and sustaining important decisions.

25
26 78. I can only conclude that the legislation's extraordinary structure for CUC is the result of a
27 **drafting** error, and the People, through their elected representatives, wish their utility company to
28 continue to supply them with essential power, water and wastewater services at a reasonable
29 cost, meeting industry standards.

30
31 
32 **Fixing CUC's technical insolvency**

33
34 79. CUC has been unable to borrow money to run its operations since the inception of this State
35 of Disaster Emergency due to (a) its poor **financial** condition and (b) the existence on its books
36 of a liability to the Commonwealth Development Authority ("CDA") of approximately \$115
37 million. This situation may be corrected if the Executive Director is recognized to have the
38 authority to correct it. Part of this situation, the CDA relationship, has been corrected precisely
39 because the Executive Director was empowered by this Executive Order to do so.
40

1 80. Meanwhile, billings and collections are substantially below the levels required to prudently
2 manage CUC's current operations and provide for system repairs, replacements and upgrades.
3 For example, billings alone for water and wastewater were less than 70% of requirements to run
4 those two systems. This has changed slowly as the CPUC's June 2010 rate increase takes effect.
5 CUC's cash position continues to be perilous.

6
7 81. The booked CDA obligation rendered CUC nominally insolvent. While CUC was deemed
8 insolvent, CUC could not borrow money. But CUC must be able to borrow money to bridge the
9 gap between (a) the need to spend money on essential goods and services to provide electricity,
10 water and sewage service, and (b) the lagged collection of revenues from the sale of those
11 services. Recent improvements in CUC finances, including the issuance of audit reports, have
12 been insufficient to allow CUC to go to market.

13
14 82. The CPUC, in its September 3, 2009, electric order, Docket No. 09-1, approved a CUC-
15 CDA settlement converting the CDA debt to preferred stock. But the deal has required CUC's
16 Board to agree to it.

17
18 83. There is no Board. CUC has functioned without a Board of Directors, because it has had to.
19 While CUC's enabling act, reenacted as PL 16-17, as amended, authorizes a Board, there is no
20 CUC Board yet because, while the staff of the Governor's Office have diligently tried to find
21 Board volunteers who meet the complex statutory qualifications, they have been unable to do so.
22 Nonetheless, CUC must continue to function, including borrowing money.

23
24 84. Directive # 9 provides the required authority to the Executive Director. It also permits him
25 to continue to run CUC, carefully manage cash to pay tens of millions of dollars annually for
26 fuel oil and purchased power, and do all the things necessary to providing power, water and
27 wastewater services, until the remaining members of a properly constituted Board can be
28 identified, confirmed, and convened for business. Without a fully empowered Executive
29 Director, CUC would be unable to attain financial and operational health. For example:

- 30
31 a. In February 2010 the Executive Director delivered to CDA management the stock
32 certificates required for the debt-equity conversion. CUC has received the fully
33 executed copy of the Stipulated Notice of Dismissal (with prejudice) in CDA v.
34 CUC, Superior Court Civil Action No. 01-0248D (4/21/2010), which the CPUC
35 has required that CDA provide to make effective the conversion of the CDA debt
36 to preferred equity. CUC sought CPUC final approval. The Commission
37 provided that approval in the rate order authorized at its May 28, 2010, business
38 meeting. Soon, CUC must be able to demonstrate to the financial community that
39 it is properly managed, so that it can borrow and pay back long term capital.
40

- 1 b. On May 28,2010, the CPUC issued a rate increase order that was critically
2 required to return CUC's water and wastewater operations to financial health.
3 The Executive Director oversaw and approved of the complex rate request and
4 approved the resulting stipulation supporting the rate order.
5
6 c. On November 10,2010, CUC filed a petition with the CPUC for an electric side
7 rate increase which, if granted, would support in critical part CUC's securing \$15
8 million in long term financing. The debt would pay for necessary equipment and
9 construction, including measures required by the US District Court and the EPA
10 in the federal Stipulated Orders. For example, Power Plant #1 has no more spare
11 parts, the roof of Power Plant 1's control room leaks, presenting the potential for
12 shorting out critical control instruments, CUC's power poles and their insulator
13 pins have degraded, are shorting out, and must be replaced, and CUC's vehicle
14 fleet is failing, must be replaced, and is unsafe to the point where recently a wheel
15 broke free of a moving truck. The Executive Director oversaw and approved the
16 filing and served as CUC's lead expert witness.
17

18 **■**
19 **Providing the basis for proper CPUC oversight**
20

21 85. The broad and comprehensive statutory scheme of utility regulation in the Public Utility Act,
22 4 CMC §§ 8401-84, provides that the utility regulator, the CPUC, will carefully examine CUC
23 activities, particularly financial activities.
24

25 86. This extensive oversight satisfies the policy need for a body of arms-length, well-informed
26 citizens to watchdog the activities of this, the Commonwealth's key resource. Thus, the statute's
27 error-infused creation of a volunteer Board which would run the corporation on a day-to-day
28 basis, becomes much less important than satisfying CPUC requirements.
29

30 87. What becomes very important is CUC's capability to provide the CPUC with accurate and
31 timely financial and accounting information. But such reporting is not possible without a
32 competent, trained staff of accounting and financial experts at CUC, and a properly-empowered
33 Executive Director to lead them.
34

35 **■**
36 **Addressing a critical financial challenge**
37

38 88. CUC faced a financial crisis in June 2010. It was critically short of funds to buy oil.
39 Without oil CUC would be forced to shut down its generation, bringing the economy of the
40 CNMI to a halt, and endangering health and welfare as electricity-dependent operations ceased –
41 sewage treatment, water pumping, traffic lights and security lighting, air conditioning for the
42 elderly, infants, and other medically fragile persons, and equipment at the CNMI's Hospital and

1 health clinics. The principal reason for the shortage was the Government's failure to pay
2 millions of dollars of utility bills. The Government was in arrears about four months on its bills.
3 Only by eliminating restrictions on the Governor's power to reprogram funds to address this
4 issue was crisis averted.

5
6 89. CUC only had a day or two's worth of purchased oil to power its system because it lacked
7 the funds to buy oil from its sole, cash-only supplier.

8
9 90. The Executive Director was required to spend substantial time on a concentrated basis
10 interacting with high CNMI government officials as well as developing contingency plans for
11 the orderly shut-down of the CUC system.

12
13 91. Fortunately, the Administration was able to develop a multi-stage plan to enable the
14 payment of enough CNMI Government bills, and the reprogramming of CUC funds to forestall
15 disaster. (The Government is once again over two months in arrears on its bills.)

16
17 92. In order to facilitate this solution, the Governor issued a Declaration of Disaster Emergency
18 (June 8,2010).

19
20 93. Development of this temporary financial rescue plan would not have been possible without
21 the dedicated, focused effort of a properly empowered Executive Director. Such financial
22 conditions may continue unless the Government, and other large CUC customers, can be brought
23 current, and remain current, on their bills. This may present a challenge for CUC, given the
24 stressed financial conditions of the Commonwealth. A properly empowered Executive Director
25 will be required to address this challenge.

26
27 94. On May 11,2010, CUC submitted to EPA a **draft** organization evaluation and
28 reorganization plan. But on June 14,2010, the EPA assessed CUC a \$140,000 penalty for
29 failing to submit timely such a plan. EPA has yet to approve a master plan for CUC. In a July
30 1,2010, official letter EPA stated its belief that CUC still lacked the technical capability to put
31 together "adequate" submissions. The EPA required the hiring of a new Executive Director by
32 October 29,2010; this was accomplished. But EPA disapproved of a CUC "Reorganization
33 Plan" by its letter of November 5,2010.

34
35 95. Importantly, CUC requires a functioning management, including a properly empowered
36 Executive Director, to forestall additional EPA punitive action.



1 **CRISIS FROM THE LACK OF LEGISLATIVE ACTION**

2
3 96. There is no Legislative relief coming. For months CUC has repeatedly asked the
4 Legislature for such relief, including submission of draft legislation in July 2010. The
5 Legislature has declined to respond. There is no alternative to providing this relief other than **an**
6 order **from** the Governor. Inaction will produce a disaster in which CUC is unable to provide its
7 critical community services. Directives # 9 and #10 were designed to avert this crisis. (The
8 other Directives, #1 through #8, are no longer relevant, and were discontinued.)
9

10 97. This Declaration is necessary to protect the health and safety of our children, our senior
11 citizens, businesses and all other CNMI residents and visitors.
12

13
14 ☒
15 **CONCLUSION AND ORDER**

16
17 Therefore, I hereby invoke my authority under Article III, § 10, of the Commonwealth
18 Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threat
19 facing the Commonwealth of the Northern Mariana Islands.
20

21 Exercise of the Constitutional and statutory authority invoked herein will be effectuated by the
22 issuance of Executive Directives setting forth the measures to be taken to address the State of
23 Disaster Emergency pursuant to 3 CMC § 5121(f), which states:
24

25 (f) In addition to any other powers conferred upon the Governor by law, the Governor
26 may, during a state of disaster emergency:

27
28 (1) Suspend the provisions of any regulatory statute prescribing the procedures
29 for conduct of the Commonwealth's business, or the orders, rules, or regulations
30 of any Commonwealth activity or agency, if strict compliance with the provision
31 of any such statute, order, rule or regulation would in any way prevent, hinder, or
32 delay necessary action in coping with the emergency;

33
34 (2) Utilize ail available resources of the Commonwealth as reasonably necessary
35 to cope with the disaster emergency of the Commonwealth;

36
37 (3) Transfer the direction, personnel, or functions of the Commonwealth
38 departments and agencies or units thereof for the purpose of performing or
39 facilitating emergency services;

40
41 3 CMC § 5121(f)(1)-(3).

1 By today's disaster emergency declaration, I intend to enable CUC to continue to provide
2 necessary service to the people of the Commonwealth.

3
4 This Declaration of a State of Disaster Emergency shall take effect immediately and all
5 memoranda, directives and other measures taken in accordance with this Declaration shall
6 remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the
7 end of the thirty (30)-day period, notify the Presiding Officers of the Legislature that the state of
8 emergency has been lifted or has been extended for an additional period of thirty (30) days. 1
9 CMC § 7403(a); 3 CMC § 5121(c).

10
11 A comprehensive report on the exercise of my constitutional authority shall be transmitted to the
12 presiding officers of the Legislature as soon as practicable in accordance with 1 CMC § 7403(a).

13
14
15 **DIRECTIVES**

16
17 I direct the following:

18
19 Directive 1: Deleted.

20
21 Directive 2: Deleted.

22
23 Directive 3: Deleted.

24
25 Directive 4: Deleted.

26
27 Directive 5: Deleted.

28
29 Directive 6: Deleted.

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31 Directive 7: Deleted.

32
33 Directive 8: Deleted.

34
35 Directive 9: The Executive Director of CUC shall have all the powers of the CUC Board,
36 thereby enabling him to carry out all critical business of CUC, pending the earlier of either (1)
37 the confirmation and convening of an operating CUC Board, or (2) the termination of the
38 authority of this order. In particular, the Executive Director shall have full power and authority
39 to agree to swap CDA debt and related obligations for preferred stock and related features and
40 rights.

1 Directive 10: The following strike-out-formatted language of the quoted provisions of the
2 following statute regulating government employment is, as indicated, suspended immediately:
3

4 §4532. Exemptions.

5
6 Persons other than citizens and permanent residents may be exempted from the
7 employment restriction in 3 CMC §4531 and employed within the following government
8 entities and positions, on a case by case basis:
9

10 ~~(a) Department of Public Health. United States or Canadian board-certified physicians~~
11 ~~and dentists licensed to practice in the Commonwealth.~~

12 ~~(b) Department of Commerce. Temporary or part-time employees as needed for censuses~~
13 ~~and statistical surveys.~~

14 ~~(c) Government translators. Approved foreign national translators for: the Department of~~
15 ~~Labor, the Office of the Attorney General, the Office of the Public Defender, the~~
16 ~~Department of Public Safety, the Commonwealth Superior Court, the Commonwealth~~
17 ~~Supreme Court, and the Marianas Visitors Authority. The Attorney General shall~~
18 establish guidelines for the approval of foreign national translators for the Executive
19 Branch. The Supreme Court may establish guidelines for the approval of foreign national
20 translators for the Judiciary.
21

22
23 3 CMC § 4532, as most recently amended by PL 17-1. (Strikeout is deliberately added) That is,
24 the following language is suspended: "the following", "on a case by case basis" and the
25 following listing:
26

27 " (a) Department of Public Health. United States or Canadian board-certified physicians
28 and dentists licensed to practice in the Commonwealth.

29 " (b) Department of Commerce. Temporary or part-time employees as needed for censuses
30 and statistical surveys.

31 " (c) Government translators. Approved foreign national translators for: the Department of
32 Labor, the Office of the Attorney General, the Office of the Public Defender, the Department of
33 Public Safety, the Commonwealth Superior Court, the Commonwealth Supreme Court, and the
34 Marianas Visitors Authority."
35

36 I further suspend and delete the "moratorium" of sec. 4601:

37 §4601. Moratorium.

38
39 ~~There is hereby enacted a moratorium on the hiring of foreign national workers,~~
40 ~~as defined in 3 CMC §4911. This moratorium shall be read in conjunction with~~
41

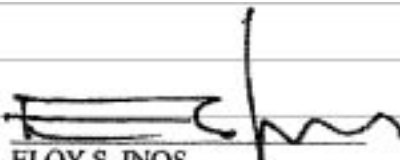
~~Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly construed and adhered to by all agencies and instrumentalities of the Commonwealth government:~~

3 CMC § 4601 as most recently amended by PL 17-1. (Strikeout is deliberately added) That is, the following language is suspended immediately: "There is hereby enacted a moratorium on the hiring of foreign national workers, as defined in 3 CMC §4911. This moratorium shall be read in conjunction with Section 4532 of Chapter 2 of this part, and said ~~moratorium~~ shall be strictly construed and adhered to by all agencies and instrumentalities of the Commonwealth ~~government.~~"

I hereby direct ~~that~~ the effect of the suspension of the indicated language shall be that CUC shall have the complete power, without regard to citizenship or otherwise lawful immigration status, to hire ~~engineers, professional employees in technical or trade areas, power plant mechanics and utility technicians, either directly or indirectly.~~ I further direct that these ~~professional employees~~ may include, but shall not be limited to, ~~sanitarians, engineers, accountants, financial experts, information technology specialists, mechanics, electricians, well-drillers, pipefitters, plumbers, wastewater treatment facilities operators, laboratory specialists and other trades technicians and their professional managers.~~

I further direct ~~generally~~ that the suspension of the language for specified agencies and the specified positions shall not be held as a limitation ~~as to unnamed agencies and instrumentalities,~~ but shall continue to permit other government entities to continue to fill ~~needed~~ positions, ~~particularly in the areas of health care, census and translation/interpretation.~~ Additionally, suspension of the term "on a case by case basis" shall permit government entities, ~~including,~~ notably, CUC, to develop programs and procedures that avoid the delays inherent in creating or obtaining case-by-case reviews and ~~approvals.~~ Finally, suspension of the ~~moratorium~~ is not intended to impede the efforts of CNMI agencies and instrumentalities in ~~lawfully~~ identifying and filling positions with qualified citizens and ~~legal residents.~~

Done this 19th day of November, 2010.


ELOY S. INOS
Acting Governor

10-011-2010-17-001, The Civil Code 28 | 10Nov10 14 November 2010



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

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EXECUTIVE ORDER 2010-09

DECLARATION OF A STATE OF DISASTER EMERGENCY:

COMMONWEALTH UTILITIES CORPORATION'S
IMMINENT GENERATION AND OTHER FAILURE AND THE NEED TO
PROVIDE IMMEDIATE RELIABLE POWER, WATER AND WASTEWATER
SERVICES

CONTINUATION #25

I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the
Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth
Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby
declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands
due to the inability of the Commonwealth Utilities Corporation (CUC) to provide critical power
generation service to the CNMI and the extreme, immediate and imminent threat such condition
poses to the Commonwealth of the Northern Mariana Islands.

This Executive Order is intended to, and does, continue in effect portions of the Governor's
preceding disaster emergency declarations on this matter, EO 2009-01 through -09, and 11-13,
and EO 2010-01 through -06, and -08, except as specifically modified. As more fully stated
below, this Executive Order shall expire on the 31st day following the date of my signature. The

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following findings and conclusions further support continuation of the Declaration and issuance of directives.

Table of Contents

DECLARATION OF A STATE OF DISASTER EMERGENCY:..... Page 1 of 25

FMDMGS..... Page 3 of 25

MANPOWER CRISIS DUE TO **RESTRICTIVE** LEGISLATION..... Page 3 of 35

Summary...... Page 3 of 25

Background..... Page 3 of 25

Staffing CUC with the technical experts to permit continued electric service..... Page 5 of 25

Complying *with* the federal court order on disposal of used oil..... Page 10 of 25

Complying with the federal court order on managing the water and wastewater systems. Page 12 of 35

Meeting US District **Court** and CNMI Public **Utilities** Commission requirements to produce timely, accurate financial reports. Page 15 of 25

MANAGEMENT CRISIS IN ABSENCE OF A PROPER **BOARD/CEO** STRUCTURE..... Page 17 of 25

Forestalling **corporate** paralysis..... Page 17 of 25

Fixing CUC’s technical insolvency..... Page 18 of 25

Providing the basis for proper **CPUC** oversight. Page 19 of 25

Addressing a critical financial challenge..... Page 20 of 35

CRISIS FROM THE LACK OF LEGISLATIVE ACTION. Page 21 of 25

CONCLUSION **AND** ORDER. Page 21 of 25

DIRECTIVES...... Page 22 of 25

Directive 9: The Executive Director **of CUC** shall have all the powers of the CUC Board. Page 23 of 25

Directive 10: **The** following strike-out-formatted language of the quoted provisions of the following statute regulating government employment is, as indicated, suspended. Page 23 of 25

1
2 **FINDINGS**

3
4 I find that:

5
6 1. All **findings and** conclusions of EO 2009-01 through -09, and 11-13, and EO **2010-01**
7 through -06, and -08 are incorporated by reference, except as specifically **varied in this**
8 Executive Order.

9
10 **MANPOWER CRISIS DUE TO RESTRICTIVE LEGISLATION**
11

12
13 2. Summary. A shortage of manpower forced by **legislation limiting** skilled foreign workers
14 has continued to place CUC operations at risk. **Incipient failures** in the CUC water, wastewater
15 and power transmission and distribution networks have underscored the importance of having in
16 place a **well-funded** and **functioning** preventive maintenance program. Skilled workers and a
17 responsive support system are key to the success of the operations, particularly of preventive
18 maintenance. Presently **CNMI law (PL 16-14) prohibits** CUC **from** hiring anymore non-US
19 technical workers than the 19 skilled professionals **recently with CUC**. **CUC has repeatedly**
20 **asked** the **Legislature** for relief **from** this statute regulating the Government's workforce, to **no**
21 **avail**. Further, errors in wording in the CUC enabling legislation recently reenacted, PL 16-17,
22 **as** amended, would bar the Executive Director from day-to-day management of the corporation,
23 effectively shutting CUC down. This EO eliminates these **problems** while it is in effect.

24
25 3. Background. CUC has substantially minimized the risk of losing the **services** of its owned
26 generating **capacity**, which losses created **intermittent** blackouts on portions of its system. **It**
27 therefore allowed the **Aggreko** year-long temporary power contract to terminate, as provided in
28 the agreement, **effective** September 12, 2009. This saves CUC customers at least \$6 million per
29 year in fees. **But** it still presents risks, as the strategy **requires** proper operation and maintenance
30 of CUC's owned engines by CUC's **technical staff**, and the timely securing of **materials** and
31 supplies.

32
33 4. CUC bears a substantial obligation to deliver highly technical work on time to the **satisfaction**
34 of the US District Court and the US EPA, pursuant to two consent, or "stipulated", orders.

- 35
36 a. The first requires the upgrade and smooth **functioning** in virtually all aspects of
37 CUC's water and wastewater divisions. The second requires CUC to properly
38 eliminate over 400,000 gallons of used oil and to institute measures to avoid
39 uncontrolled buildup of such inventories. Failure to meet the requirements of the
40 federal court orders could subject CUC and the CNMI to **substantial** fines and
41 charges, and, in the extreme, to a federal takeover of their **finances**. Presently

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CUC is “accruing” substantial fines. Most of the **fines** have not been levied; but they could be. The EPA has, however, **levied** two **fines**, in the amount of **\$29,000** and **\$140,000** (June 2010 letter).

- b. **On February 24, 2010, the US District Court** entered an additional stipulated order. It provided, among other **things**, that a **professionally-developed** Interim Financial Plan (“IFP”) would be provided to the US EPA within 30 days, by March 26, 2010. **This** additional stipulation requires CUC to meet a number of deadlines, each involving the application of technical expertise. CUC **has** timely filed the IFP. **It now has** the task of **implementing** the IFP and meeting these deadlines. Failure to meet these requirements would **subject** CUC to the **described** sanctions.
- c. Of concern to CUC are the **tight** deadlines for Stipulated Order 2 (Oil Management) projects that are funded by a \$4.05 million CIP grant awarded in **February, 2010**, by the **US** Department of the Interior's Office of Insular **Affairs**. The funding is to assist CUC is disposing of the used waste oil discussed in this Executive Order. Failure to meet the deadlines **could subject CUC to** additional EPA sanctions.
- d. The coordination of the approvals **from** the various agencies **calls** for a responsive procurement system at CUC, including the trained technical staff to **implement** the system.

5. CUC is thoroughly regulated by the Commonwealth Public Utilities Commission (“**CPUC**”). The regulator **has** plenary power over **CUC** rates, charges, **fees**, operations and capital investments. CUC’s **failure** to timely and competently meet CPUC orders and other requirements can result in severe rate discipline, and **fines** and other penalties. For example, the Commission required CUC to meet certain requirements, **including** the filing of a **technically** complex rate **case** (Docket No. **10-01**) by **the end** of **January** 2010, or face fines of \$500 per day.

6. CUC is the sole electricity supplier to the Government of the CNMI, including all public safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the **CNMI’s** businesses and **homes**. While some businesses and agencies own backup generators, they are not generally organized, to use the backups as permanent power **sources**; and the diesel oil purchased to run these generators is **substantially** more expensive than that used for CUC power.

7. Without CUC electricity:

- 1 a. most CNMI economic activity would come to a halt, the courts would soon close,
2 much **refrigeration** and air **conditioning** would end, **and** the airports and ports
3 would be forced to rely on emergency generation and the limited, expensive oil
4 supply for it;
5
6 b. the CNMI's health and safety would immediately be at risk, since **traffic signals**
7 and street lighting would cease to **function**, emergency, fire and police facilities
8 and their communications systems, and the Hospital and island clinics would have
9 to rely on limited oil supplies for emergency generation and then cease
10 **functioning**, much **refrigeration** of food and **medicines** would end, as would air
11 conditioning for the elderly and medically fragile;
12
13 c. the **public** schools and the Northern Marianas College would close. Other
14 educational institutions would close as their backup oil supplies for emergency
15 generators were exhausted, and
16
17 d. water and sewage treatment would soon end. One of **CUC's** largest electric
18 customers is the combined CUC Water and Wastewater Divisions. CUC is the
19 sole supplier of electricity for these systems. **CUC's** water system relies on
20 electricity to maintain the system pressure needed to avoid the **backflow** of
21 pathogens, to chlorinate, **and** to pump, store and to **distribute** water **supplies**.
22 CUC's wastewater system requires electricity to **collect**, pump, process, treat and
23 discharge sewage. The lack of electricity could result in sewage overflows,
24 contamination of land and water and rendering unsafe the **CNMI's** beaches,
25 which are also **principal** tourist destinations.

26
27 8. As discussed below, CUC is currently advertising for about 20 vacancies, including the
28 Executive Director, the Water Distribution Manager, the Wastewater Manager, five engineers, a
29 **general** counsel, an internal auditor, a grants writer and/or a grants specialist, two wastewater
30 level 2 treatment operators, two wastewater **level 2 collection** operators, **and** two water treatment
31 **/distribution** levels 1 and 2 operators for Rota. CUC also seeks to renew 18 **technical** and
32 professional **contracts** for non-US citizens. Without these positions **filled** CUC's operations
33 would be severely compromised.

34
35 **Staffing CUC with the technical experts to permit continued electric service**
36

37
38 9. CUC continues to maintain and rehabilitate its owned power plants. CUC tries to maintain
39 and rehabilitate the operating units to adequately meet load. CUC has secured federal **funds** to
40 buy many needed parts to avoid outages. CUC began the needed **overhaul** of PP #1 unit DE-5 in

1 September 2009. In October four other **units** began required overhaul, which will take 12
2 months.

3
4 10. In November 2009, the following **work** started: The critical replacement of the PP #1
5 anchor bolts, in order to stop the **shifting** and **vibration** that has ruined the **plant**; and foundation
6 repairs to Engines 1 and 8. Shortly thereafter the replacement of turbochargers **and** oil-water
7 separators began. All of this work is **essential**.

8
9 11. This work **has** been successful. Power Plant 1 Engines 1, 2, 3, 5, 6, 7 are available. Engine
10 8's critical foundation repair and **anchor** bolt replacement have been completed. The major
11 engine overhaul is under way.

12
13 12. In **effect**, CUC management, with generous federal financial **assistance**, has brought its
14 generation back **from** the brink of system failure. There are adequate reserves. If maintained
15 properly, the system can provide the CNMI's citizens and residents with adequate power.

16
17 13. Adequate technical **staff** is essential to this work. A **major** challenge to **carrying** out this
18 rehabilitation has been finding the **trained** technicians **needed** to carry out these rehabilitation
19 projects, and **maintain** and **run** the equipment. The technicians must be ready for **service** when
20 needed and **their** services **must** be affordable. Any **significant** reduction in CUC's present
21 technical workforce could seriously compromise **CUC's** ability to generate and distribute power.

22
23 14. With respect to **CUC's** lines, **equipment** used by **CUC's** **Transmission and Distribution** unit
24 ("**T & D**"), **including** many vehicles, is dilapidated and bordering on being unsafe. There is **an**
25 insufficient number of skilled workers to operate T & D. The **linemen** must be trained to, and
26 **skilled** in, meeting US standards. **Fortunately**, a federal **DOUOIA** grant paid for **some** lineman
27 training in June. The critical upcoming projects in T & D include the replacement of the
28 antiquated, rundown and unsafe vehicle fleet; the redesign of T & D **using** **national** Rural Utility
29 Service standards; the **replacement/installation** of insulators, transformers, **overcurrent**
30 protection, **sectionalizers** and the installation of efficient LED street lighting.

31
32 15. For example, **Saipan's** early-September 2009 brush with Typhoon Choi-Wan 15W that
33 passed to **the** north of Saipan, and typhoon **Melor**, which passed just north of Saipan in October
34 2009, **underscored** the extreme vulnerability of **CUC's** power transmission and **distribution**
35 system. In September 2009, over **150** calls of no-power and line **faults** were fielded by crews
36 when, **for** a storm of this size, there should have been no more than a score. Fortunately, last
37 year's typhoon season ended with no direct hits on the CNMI and **the** power **distribution** system.
38 Accelerating improvements to the T & D **system**, with proper staff under an Emergency Order,
39 would allow CUC to "harden" the **system** in anticipation of a bigger storm event. The
40 alternative, in a more serious storm, is CUC's inability to recover in any reasonable time period.
41 The year 2010 will see a new typhoon season.

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16. Nonetheless, outages due to Power Transmission & Distribution were extremely low: May saw **only** 11 minutes; April just one minute. These are the lowest such figures in the last seven years, reflecting an extraordinary **accomplishment** for an understaffed, overworked CUC work **group**.

17. Further, utility industry safety margins for isolated, island systems typically require a reserve equal to the capacity of the two largest generating units. In **CUC's** case this would be another 15 MW of load, equivalent to the departed Aggreko temporary units. Meeting this reserve requirement **means** CUC must have **an** adequate repair and maintenance **staff**.

18. The Legislature, through PL 17-1 (Mar. **22, 2010**), has limited CUC's ability to hire technical **staff**, eliminating prior statutory permission to hire up to 19 foreign workers, and reinstating a **moratorium** on the Government's **hiring** foreign nationals, even if needed for highly technical positions for which no local or Mainland citizens are available. The CUC Act, as subsequently re-enacted by PL 16-17 (Oct **1, 2008**), provides that CUC shall hire such persons as are necessary for operations, except as otherwise **limited by other law**. **4 CMC § 8123(b)**.

19. **PMIC** at PP #4 and **Telesource** on Tinian, and the Rota Resort on Rota, as Independent Power Producers (**IPPs**), are not subject to the Legislature's **limitation** or prohibition on foreign workers. Nor are **consulting firms** that provide **specialty** utility industry **services**.

20. There are not enough **technical** specialists at **CUC** to get the power generation work done, particularly specialists with experience in the type of engines that CUC uses. CUC believes that the vast majority of skill sets must come **from** non-US personnel.

21. CUC has tried to hire diesel mechanics in the **CNMI**, but has been **unsuccessful** in **finding** all the **qualified** candidates. In the summer of **2009** CUC identified 16 potential new staff **after** interviews - 7 mechanics, 1 welder, 1 machinist, and 7 operators. Two of the operator candidates were US citizens.

22. CUC has hired some local staff in time thanks to the **aggressive** steps of CUC HR, the Executive Director and earlier versions of Directive 10.

23. CUC **has** hired **skilled** trade technicians needed on **Saipan** for power plant operations and maintenance. For Rota, CUC announced the need for a mechanic-operator and an **electrical** operator. As more **units begin** working after the rehabilitations are largely complete, CUC **will** need more staff to operate and maintain them. For the foreseeable future, CUC needs to **maintain** its complement of skilled workers. In the meantime, CUC continues to work with the Northern Marianas Trade Institute (**WMTI**) to **find** **local** trainees, part of a multi-year

1 apprenticeship **program**. CUC has about a dozen of these trainees, but requires **fully trained**,
2 experienced technicians to keep the power plants **running**.

3
4 24. With generous grant **funding** and the use of in-house technical specialists and outside
5 contractors, **CUC** has undertaken substantial rehabilitation of its power **system**. Future projects
6 include replacing turbochargers, conserving and reclaiming used **lube** and waste oil, **retrofitting**
7 streetlights with low-wattage **LED's**, and **restoring** power generation and adequate distribution
8 on Rota. Even **if contractors** do the work, CUC **technical staff must** research **and** prepare bid
9 documents, review technical proposals, and oversee the work.

10
11 25. The **bottom** line on **CUC's technical** work has been a substantial **increase** in reliability,
12 **specifically** the availability of **CUC's** generation. **CUC's** transmission and **distribution** has
13 similarly improved – January **2010 saw 10** hours **44** minutes of outages, April 2010 **saw one**
14 minute. It was **critical** to this latter improvement that CUC had the skilled, trained work force to
15 maintain power lines.

16
17 26. But even as power **becomes** more reliable, CUC must reduce **its distribution** losses **from** the
18 reported level of 8%. **With** world oil prices increasing CUC's power costs, such losses **already**
19 account roughly for \$4.8 million, which CNMI customers must cover. **CUC** requires a team of
20 skilled technicians to **find** and **eliminate** power theft and line losses.



22
23 27. The impact of **an inadequate** workforce would be four-fold:

- 24
25 a. **First**, there would be a direct negative effect on the existing **consumers**. There
26 would be brownouts, or area blackouts, with the above-mentioned loss of service.
27
28 b. Second, the power plants would again degrade, producing more of these outages.
29
30 c. Third, there would be an **indirect** effect, increasing rates over the longer term,
31 because small **consumers** would have to shoulder more of the fixed **costs** of the
32 CUC system. First, there would be loss of large customers. By contrast, if the
33 hotels were to become part of the system, **they** could help pay CUC fixed **costs**,
34 which **would** lower everyone else's rates. The hotels need reliable, 2417 power.
35 But with unreliable power, CUC would be unable to convince large commercial
36 customers, particularly the hotels, to join, or rejoin, its system. Second, would
37 come **additional** expenses. If CUC fails to meet federal court deadlines for the
38 stipulated orders, the Court could appoint a federal receiver and its consulting
39 team – with all expenses charged to CUC customers. The EPA has already
40 **imposed** stipulated order penalties; it recently required the payment of a **\$140,000**

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~~penalty~~. Thus, the indirect effect of an inadequate workforce would be to boost rates.

- d. Fourth, with the recovery of the world economy, advise CUC experts, oil prices can be expected to rise. If CUC's generators become less efficient, because technical staff are unavailable to maintain CUC's engines' efficiency, that much more oil would be needed to generate a given amount of electricity. The price rise will thereby harm CUC's customers and electricity-dependentservices with higher rates.

28. Rota's status today is precarious and financially un-sustainable. Rota has suffered blackouts from inadequate generator maintenance. The power plant's other facilities and the island's distribution system similarly need the attentions of additional manpower. The Rota power plant needed additional generating sets to come on he e, as there are only 1.5 dependablesets in the plant. The third of two feeders was, until June 2010, powered by the Rota Resort, a private resort, at a cost of \$200,000/month to CUC. The revenues to CUC from the customers on this feeder fall far below this cost. CUC has negotiated with a Mainland supplier for a new generating set, with funding from the US Department of the Interior. The alternative for Rota was akin to Saipan's recent Aggreko situation - purchasing higher cost, reliable power from the Rota Resort. Therefore, in June 2010, two 0.9 MW Cummins generating sets were transported from Power Plant 4 on Saipan to Rota in order to augment the power generation. These two generating sets should be commissioned by the end of July, 2010.

29. Since EO 2009-8 in August, and the suspension of the harmful legislative employment restriction, CUC has taken steps to hire the expertise to operate and maintain the Saipan and Rota power generation facilities. CUC needs to be able to hire the workers it needs when it needs them. Otherwise, if CUC had to discharge these workers, its staffing levels would return to those which overworked its limited staff. For example, over pay period numbers 2 through 11 of the year 2009, CUC accumulated 18,053 hours of overtime from technical employees who each worked 40 or more hours of overtime in a pay period. This condition is extreme, and a repeat can result in inefficiencies and poor work quality. It can lead to dangerous mistakes, producing injury or death.

30. CUC has repeatedly asked the Legislature to lift the restrictions on foreign workers. The Legislature has failed to act on the CUC request. Without relief, this inaction will effectively set the stage for loss of service and higher rates. Among other things it will thereby reverse the \$6 million-per-year benefit of terminating the Aggreko temporary power contract.

31. CUC points out that the power distribution system is highly vulnerable because, like the sewer system, so much of the maintenance and replacement was deferred for one reason or another over the past 20 years. Since 1995, 26 villages on Saipan were identified as needing

1 major improvements to the power lines; only five have seen those improvements. Power T & D
2 fails in bits and pieces. One of the big pieces that failed in February 2010 was one of 12
3 termination cables on the Kiya Substation (Transformer One). A power outage to the southern
4 parts of Saipan lasted from one to five hours. CUC management states that the excellent
5 response from the crews in both Power Generation and Power T & D demonstrated the
6 importance of having skilled workers. The top two engineers were non-residents. Without this
7 EO in place, given present statutes, it is unlikely CUC would be able to secure the services of
8 such valuable individuals.

9
10 32. The extended dry season this year (see below) means that vegetation must be cleared away
11 from the lines early and often. Brush fires can damage the power lines, telephone facilities, and
12 television cables. Meanwhile, CUC crews must replace falling insulator bolts and falling
13 switches in order to avoid distribution-related power outages.

14
15 33. CUC has demonstrated that the required workers are available as nonresident workers, and
16 cost-effectively so. Thus, continued relief from the legislative prohibition of hiring foreign
17 national workers is necessary to ensure the delivery of uninterrupted power services to the
18 people of the Commonwealth.

19
20 
21 **Complying with the federal court order on disposal of used oil**

22
23 34. CUC has taken concrete steps to address the storage and disposal of used oil, consonant
24 with the federal court's Stip Order 2. Federal court Stipulated Order 2 relates to the used oil
25 from the engines for four facilities (Power Plants 1, 3, 4 and Rota) and all CUC transformers.
26 USA v. CUC & CNMI, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order 2"). With an
27 adequate complement of trained technical employees, complemented by expert contractors, CUC
28 believes that it can meet the Stip Order requirements. On August 12, 2010, the Court issued the
29 Second Joint Stipulation ("SJS"), which replaced many otherwise unattainable deadlines, but
30 provided other deadlines and stiff penalties for a host of technical and management positions.
31 The SJS also provided for firm dates for reporting on the use of grant funds, on the progress of
32 secondary containment facilities, providing a facilities response plan ("FRP"), and cleaning out
33 Tank 104.

34
35 35. A September 2009 inspection by the US Coast Guard (USCG) resulted in the imposition of
36 another cost that was unanticipated even with Stip Order 2. The USCG now requires additional
37 and more stringent measures to contain or eliminate the possibility of any oil reaching the ocean
38 from Power Plants 1, 2 and the power plant on Rota. Further, as of October 2009, CUC has
39 faced the following staffing needs in this area: It critically needs the resources to inspect and
40 redesign the entire fuel storage, pumping and handling system in order to meet the more
41 stringent requirements of today. The clean fuel storage tanks at Lower Base were originally

1 designed for another application. The **fuel** line **from** the **oil** company's terminal is **in** danger of
2 rupturing during a transfer; **the** **pumping** rate has to be reduced to prevent this. Fixing **all** of this
3 requires trained CUC **staff**.

4
5 36. Serious deficiencies in the waste oil handling system at Lower Base have come to light in
6 the past months and are being addressed by both CUC and EPA. One deficiency is that the oily
7 water separators are not **functioning** as such because of the excessive amount of oil (as opposed
8 to water) entering the system. As a result, **oil** was spilling onto the ground rather than **being**
9 separated and skimmed off properly. Power Plant #1 has been sealed off to prevent any waste
10 oil **from** leaving the plant and flowing into the oily water separators. To prevent oil **from**
11 accumulating **uncontained** in the plant itself; **emergency measures** have been taken to store waste
12 oil and to **fabricate** above-ground tanks. **The** oily water separators, pipes, holding **tanks**, and
13 baffles are being cleaned out so that the entire system can be **carefully** inspected and
14 re-engineered. All of the additional work is expensive. Regardless of who does the work
15 initially, CUC staff, EPA contractors, or a combination thereof, CUC requires skilled, trained
16 workers for the clean-up. Failure to **correct** this situation could harm the nearby environment,
17 **CUC's** ability to generate electricity properly, and the **assurances** given pursuant to Stip Order 2.
18 CUC has hired an Oil Technical Manager.

19
20 37. Incinerators play a crucial role in helping CUC meet Stip Order 2. The two incinerators at
21 Lower Base (Power Plants 1 and 2) are now operating, and burning **about 10000 gallons** of used
22 oil per day. One had to be taken out of service due to mechanical issues, is being repaired by a
23 contractor, and the contractor's work **must** be approved by the Deputy Director for Power
24 Systems, a non-US-citizen. This EO has permitted Power Generation the **flexibility** of **hiring**
25 skilled non-US-citizens to not **only** repair and overhaul the generating sets, but to **fix** and
26 supervise such important auxiliary equipment as the **incinerators**.

27
28 38. Nonetheless, the EPA on February 18, 2010, **filed** a **status** report with the US District Court
29 for the Northern Mariana Islands which is highly **critical** of **the** progress in **CUC's** efforts to
30 comply with Stip Order 2's requirements to **solve** the **used** oil situation. Since that report CUC
31 has contracted with the **GRESKO firm** to remove waste **oil from** Tank 104. The EPA **has**
32 strongly urged CUC to accelerate the removal, bringing the "**empty**" date forward from October
33 2010 to July 30, 2010. CUC found two additional special double-walled "**ISO**" **tanks** for use in
34 the project, to add capacity to the contractor's six **tanks**. As a **result**, GRESKO transferred just
35 under 180,000 gallons of used oil to **Guam** by July 15.

36
37 39. Presently CUC is in process on these specific efforts to comply with **Stip** Order 2's
38 requirements, with federal **finding** authorized: Technical Manager sought for oil position;
39 secondary containment (new and repair) has received permits and NEPA clearance, and
40 construction has begun; oil disposal for Saipan's **Tank** 104; oil transfer pipeline for Luwer Base
41 design work commenced, construction contract under review by CPUC, with a target in-service

1 date of February 24, 2011; oil handling and training commenced, used oil sampling laboratory in
2 California contracted; used oil tank system integrity testing and cleanout's RFP published; oil-
3 water separators in planning stage; used oil transfer and solid waste disposal for Saipan and Rota
4 are in planning stage; facility response plan ("FRP") for oil spills is in negotiation stage with a
5 new Saipan-based firm.
6
7

8  _____
9 **Complying with the federal court order on managing the water and wastewater systems**

10
11 40. As long as the Water and Wastewater Divisions can hire competent staff and receive power
12 from the Power Division, they can function.
13

14 41. The U.S. Department of Justice ("DoJ"), Environment and Natural Resources Division, has
15 sued CUC in federal court to come into compliance with critical water and sewage treatment
16 requirements. USA v. CUC & CNMI, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order
17 1"). See also http://www.usdoj.gov/enrd/Consent_Decrees.html. In July 2008 CUC, the CNMI
18 and (in September 2008) the U.S. Environmental Protection Agency ("EPA") stipulated to this
19 first of two orders lodged with the U.S. District Court on the date the Complaint was filed. This
20 order requires CUC to implement a series of improvements to its water and wastewater systems
21 that respond to years of neglect, for which it presently lacks the funds and the complete technical
22 capability. On August 12, 2010, the Court issued the Second Joint Stipulation ("SJS"), which
23 replaced many otherwise unattainable deadlines, but provided other deadlines and stiff penalties
24 for a host of technical and management positions. The SJS also provided for firm dates for an
25 Interim Financial Plan, Reorganization Plan, full metering and billing, a complete chlorination
26 and disinfection program, the hiring of qualified operators in direct responsible charge ("DRC"),
27 and procedures to generate the scope of work for CUC's Master Plan.
28

29 42. Sewage collection piping failures are continuing at an accelerated rate. The Wastewater
30 Division must respond to acid damage in the asbestos cement piping system, the product of over
31 30 years of anaerobic conditions in sewers. This has caused significant damage to cement and
32 metal infrastructure, so that key pipe system have collapsed. December 18, 2009, saw the sixth
33 failure in six months. Failures will continue until 10 miles of sewer pipe are replaced. But
34 replacement involves complex excavations, avoiding electric, phone and water utilities, blocking
35 traffic, stopping the infiltration of seawater (which damages treatment plant facilities), and
36 pumping sewage around blocked and excavated areas. The Division has already far exceeded its
37 repair budget;
38

39 43. Providing and improving water service presents new challenges. With DEQ's classification
40 of Rota's cave-based domestic water as "surface water" CUC has had to expand water quality
41 monitoring and testing, requiring more manpower and more equipment. In May 2010, CUC

1 experienced failures in water pipes as the Cross-Island road project's contractors' equipment
2 broke pipes, requiring CUC staff to be **pulled from** other jobs, **with** required equipment, to
3 address the emergency. In addition, a substantial **section** of the As **Terlaje** sewer line collapsed,
4 requiring an emergency procurement to **hire** an outside **firm** to make the repair.
5

6 44. Sewer line collapses are not uncommon, typically the result of pipe thinning. CUC
7 investigates and undertakes repairs. Without this EO, **says** CUC, procurement **for** such repair
8 work would constitute a significant impediment.
9

10 45. The Sadog Tasi Wastewater Treatment Plant is undergoing long-planned rehabilitation.
11 But, without such redundant equipment as a clarifier, CUC must devote extra resources to the
12 facility while the contractor repairs the **only** unit. Such work has to be conducted **within** strict
13 parameters by properly trained technicians to prevent contamination of the **environment**. Due to
14 equipment malfunctions, **sludge** is not pressed, which may have produced unacceptably high
15 July levels of enterococci in effluents **from** both the Sadog Tasi and Agingan **Point** treatment
16 plants.
17

18 46. The Division **also** needs serviceable vehicles to move its workers to and **from** job sites.
19 Presently six **vehicles are** in such bad shape that they are dangerous. The resulting reduced
20 vehicle problem raises costs and hurts **service**, as staff and materials cannot be brought to job
21 sites on **time**.
22

23 47. Sewage lift station **failures** continue, requiring CUC crews to **install** newly received pumps.
24 Approximately 17 of the 45 CUC sewage **lift** station are **in** poor condition and require **significant**
25 rehabilitation. CUC anticipates an EPA grant for the rehabilitation of these lift stations. But
26 that construction **will** not occur for approximately one year. **In** July there was a sewer blockage
27 in the CK and Susupe areas, and CUC lacked the equipment to repair it; its usual **contractor** also
28 suffered equipment problems.
29

30 48. CUC engineer staff shortages continue to hamper **CUC's** ability to anticipate and **fix**
31 technical problem. While **CUC's Water/Wastewater** Division **employs four** engineers, the poor
32 condition of the CUC sanitation assets requires at least two more engineers. But, **significant**
33 engineering resources are already focused on addressing EPA **Stip** Order **issues**. These issues
34 **include staffing** plans, pre-treatment programs, **materials** management programs, customer
35 inventory, and cross-connection control **programs**. CUC water and wastewater engineers are the
36 lead with several on-going construction projects, which **also** stretches the limited engineering
37 resources, including the Well Isolation Project, Sadog Tasi Sewer Plant **Rehabilitation**, and
38 Agingan Sewage Treatment Plant Rehabilitation. Recruitment and retention of engineering staff
39 to **meet** these challenges is **difficult**.
40

1 49. Incipient **failures** include the **failure** of 98 submersible pumps in the water system over a
2 period of twelve months. Higher grade stainless **steel** grates have to be **specified** that are resistant
3 to **pitting**. The pitting causes the grates to **fail** and consequently the pump **motors**. CUC will
4 need to purchase higher quality equipment, rather than the cheap units that **fail** prematurely.
5

6 50. CUC must be able to hire the staff to perform the required **technical** functions. The Water
7 and Wastewater Divisions cannot **carry** out their **missions** without adequate staff. **These staff** are
8 essential to producing clean, safe water supplies and removal of stormwater and sewage in a
9 safe, timely manner. While the bulk of CUC employees are drawn **from** local **and** US
10 populations, the Division management estimates that at least six trained technicians **will** be
11 required – three experienced Level 3 wastewater **treatment** operators, **two** Level 3 wastewater
12 collections operators, and **an** instrumentation **/low** voltage controls **specialist**. An experienced
13 **Water/Wastewater** Division operations **manager** will be required. CUC requires a **chemist** to
14 meet federal requirements, but has been unable to find a qualified one in the **local** population, or
15 a cost-effective professional from the US Mainland; a foreign hire has been identified, however.
16 CUC has also announced a vacancy of the position for Deputy **Director** for Water and
17 Wastewater. Seven candidates will be reviewed and **evaluated** by a team which includes the
18 Executive Director.
19

20 51. There are special reasons why the water system must be adequately **staffed** and maintained
21 this year. This **was** an **El Nino** year, and water was relatively scarce. As predicted in the Pacific
22 ENSO bulletin forecast back in February 1, 2010, the CNMI dry season **brought** below normal
23 **rainfalls** into June 2010. CUC went into an emergency mode, **conserving water**, accelerating
24 water line replacements, and locating and repairing leaks. There was greater danger of fires this
25 year, with less water available to fight **them**. For Capital Hill, the drought and a tank
26 rehabilitation project required that the distribution system in this area be **reconfigured in June**
27 2010 in order to **supply** water at least two hours per day to Wireless Ridge. Upper reaches of
28 **Navy Hill** were without water for several **days until** leaks were repaired. **With** the rainy season
29 the aquifers are only slowly replenished. As a result **Garapan** is seeing in July fewer hours of
30 water service. Unfortunately, the **leaks** were noted several months before, but lack of manpower
31 and funds prevented the pressurization required for **leak** repair. In July the **Kagman** booster
32 pump failed, and until it is replaced the **Papago** area will see less water delivered.
33

34 52. For its water and wastewater businesses, CUC has tried to hire water and wastewater
35 **certified** operators. There has not been enough interest by qualified professionals. But CUC
36 must hire such technical **staff** in order to comply with stiff EPA requirements, as expressed in the
37 latest version of the Stipulated Orders.
38

39 53. CUC also requires a constant supply of electricity to **run** its water and wastewater treatment
40 **systems**. **CUC has** very limited on-site emergency generation capability, and for only portions
41 of these systems.

1
2 54. Meanwhile CUC continues to pay for power, chlorine, lab testing costs, and repairing
3 **collapsing** sewer lines. CUC has hired a consulting team to assist it in achieving **full** cost
4 recovery for the water and wastewater systems **through** the processes of the CNMI Public
5 Utilities Commission ("CPUC"). CUC **filed** a wastewater rate increase request, complete with
6 hundreds of pages of written expert witness testimony and technical support, on January 31,
7 2010. The Commission addressed the filing in May, authorizing a June 21, 2010, rate increase in
8 wastewater rates and **full** cost recovery for the electric costs of the water **and** wastewater
9 **divisions**.

10
11 55. Nonetheless, the EPA on July 21, 2010, filed a status **report** with the US District Court for
12 the Northern Mariana Islands which is highly critical of the progress in **CUC's** efforts to comply
13 with Stip Order **1's** requirements to solve the water and wastewater situations. It included a
14 statement that tests in June and July each showed violation of the maximum contaminant level
15 **drinking** water standard for total **coliform** bacteria. (7-21-10 Status Report, p 6 **¶** 5) A hearing
16 before the Court is scheduled for August 4, 2010. The prior status hearing resulted in the
17 additional stipulated order addressed elsewhere **m this** Executive Order.

18
19
20 **Ⓜ**
21 **Meeting US District Court and CNMI Public Utilities Commission requirements to**
22 **produce timely, accurate financial reports**

23
24 56. The federal Stip Orders require CUC to produce and carry out an **Interim** Financial Plan,
25 beginning in September, 2009. The "IFP" must develop over time, becoming more **than**
26 "interim" CUC cannot do this unless it has a staff of trained accounting and other financial
27 experts who can gather data, put the data in the required form and generate the IFP and its later
28 versions.

29
30 57. Further, CUC is comprehensively regulated by the Commonwealth Public Utilities
31 Commission("**CPUC**"). The CPUC is charged by statute to oversee **carefully CUC's** operations
32 and capital expenditures, and to develop rates that **fully** pay the costs of safely operating **CUC's**
33 water and wastewater systems.

34
35 58. In electric and **water/wastewater** orders, of September 3 and November 20, 2009, the CPUC
36 addressed **CUC's** inability to deliver complete on-time financial reports, requiring CUC, in
37 **effect**, to enhance its staff capability to provide critical regulatory **information**. (Docket No.'s
38 09-1 and 09-2.) The Commission revisited CUC rates, fees, charges and operations during this
39 year, **including** in the recent rate case, Docket No. 10-01. **CUC's** Executive Director was a lead
40 witness in the case, having filed written testimony (on January 31, 2010) and supplemental
41 testimony (on April 1, 2010).

1
2 59. CUC cannot upgrade its financial and accounting operations unless it has a staff of trained
3 **accounting** and other **financial** experts who **can** gather data, put the data in the required form and
4 generate **the** required reports and filings with the CPUC, as well as provide the CPUC consulting
5 staff with the data required for their oversight. CUC has obligated itself to provide an updated,
6 compliant Interim Financial Plan and an organizational evaluation, **both** pursuant to Stip Order 1,
7 to the US District Court, and most recently, according to the February 24,2010, additional
8 stipulated'order. CUC submitted **an** IFP on March 26,2010. But EPA has yet to approve it.
9

10 60. CUC's procurement **system** is lengthy and complex. A relic of other decades, with their
11 own **challenges**, it requires extensive **technical** experience **m specifications** and the procurement
12 process, and often must be coordinated with the **CNMI's** separate procurement procedures,
13 adding **months** to processes that must respond to the **immediate** challenges outlined in this
14 Executive Order.
15

16 61. CUC last year lost 2 senior accountants plus a related specialist. The IT and billing
17 department in August 2009 was reduced by one **staffer**, **having** advertised for a replacement for 4
18 weeks to no **avail**. While it appeared **that** CUC might have to look to employing **foreign**
19 **technical specialists**, CUC hired back 2 former accountants in September 2009 and brought a
20 third person aboard in October. All are US citizens. Nonetheless, CUC **must** have the flexibility
21 to hire competent professionals as needed. CUC is still short-staffed, and **needs** an accounting
22 assistant, and an accounting specialist. On February 17,2010, CUC's new Chief Financial
23 Officer reported for duty.
24

25 62. **CUC's** decades-old **financial** and **accounting** system computer failed repeatedly **during** the
26 last three months, **including** for a complete **week**. **Already-over-committed finance** and
27 **accounting** staff were required to put in **days** of extra time in hand-recording customer payments
28 and hand-generating bills. It failed again this week, on July 19.
29

30 63. Nonetheless, the EPA on **February** 18,2010, **filed** a **status** report with the US District Court
31 for the Northern Mariana Islands which **was** highly critical of the progress in **CUC's** efforts to
32 comply with Stip Order **2's** requirements to provide timely and complete financial and other
33 operating reports and plans.
34

35 64. To summarize: Without properly trained technical **staff** **CUC's** ability to supply power is at
36 **risk**. So is its **ability** to **manage** the rest of its systems, **including** its complex procurement, its
37 **finances** and accounting. CUC's services could not be adequately staffed without the lifting of
38 the artificial legislative regulation of CUC's workforce, in EO **2009-08**, Directive **#10**,
39 suspending the limitations on CUC **hiring foreign** workers. It is obvious that the hiring authority
40 must be continued.
41

1 65. In fact, during July - September 2010 over 18 CUC employment contracts for non-citizen,
2 technical specialists will require renewal. Failure to timely renew could cripple CUC's efforts to
3 provide service and meet federal requirements. There is no indication that any of the above
4 manpower situation will be resolved in the next month without continuing in effect this EO and
5 Directive #10.
6



8 **MANAGEMENT CRISIS IN ABSENCE OF A PROPER BOARD/CEO STRUCTURE**
9

10 66. Summary. CUC is a \$70 million-per-year business, critical to the CNMI's economy and
11 the public health. Yet, the recently-renewed statute organizing it places the Board of Directors
12 in the position of day-to-day management of the corporation, and requires a complex mix of
13 technical, geographic and other qualifications for Board membership. There is no Board because
14 it has been impossible to meet these criteria. Without the Board, or its equivalent, CUC cannot
15 take a critical step toward solvency and the ability to borrow to finance its work.
16



18 **Forestalling corporate paralysis**
19

20 67. A critical concern is that the CUC Act's constricted scope of authority for the Executive
21 Director, and the complementary daily management by a host of Board volunteers, would
22 paralyze the corporation. This is particularly worrisome in light of the above-listed tasks before
23 CUC.
24

25 68. A careful reading of the CUC Act, PL 16-17, as amended, particularly its sections 4 CMC
26 §§ 8131 (Bd qualifications), 8134 (Bd approval of all "allocations" of money and property), and
27 1 CMC § 8247 (limited daily reimbursement of \$60.00); 4 CMC §§ 8132 (E.D. described), 8133
28 (limited E.D. functions listed), and 8134 (Bd approval of all "allocations" of money and
29 property), demonstrates that the Executive Director is to be left with little more to do than
30 provide reports to a Board of volunteers who are nonetheless to run CUC, a complex \$70
31 million/year corporation, on a day-to-day basis. This includes such decision-making as
32 purchasing materials and supplies, signing paychecks and other checks, hiring staff, assigning
33 work crews, connecting customers, deciding on making repairs, collecting debts, complying with
34 the details of federal and CPUC regulatory requirements, making and funding long-term
35 technical power and water/wastewater plans, overseeing filings with the CPUC, including rate
36 cases, and insuring that, on a day-to-day basis, the power and water flow and the sewage is
37 treated.
38

39 69. Permitting CUC to be managed this way would plunge the CNMI into economic chaos and
40 a public health care crisis, as corporate activity and the Hospital's operations ground to a halt -
41 with or without a Board in place. The complex technical problems Listed above simply cannot be
42 managed on a day-to-day basis by a group of non-expert volunteers. For example, the Executive

1 Director had to be available to renegotiate CUC's ~~fuel~~ oil contract this year, and ~~insure~~ that ~~fuel~~
2 supplies reached Tinian and Rota, as well as Saipan. Also, as a key witness in the recent CPUC
3 Docket 10-01, and in future rate cases, the Executive Director must be enabled to **testify** in favor
4 of the requested rate increase in order to **fully** present the required evidence.
5

6 70. No private or public utility company in the United States runs this way – with a group of
7 volunteers **managing** a \$70-million **corporation's** day-to-day operations. No other legislature in
8 the United States has mandated this form of corporate management for a public utility.
9

10 71. CUC has applied for and become eligible for millions of dollars of US ARRA grants,
11 which can substantially benefit the CNMI's **infrastructure** and create jobs. CUC has been
12 awarded \$11 million in grants **from** the EPA. But developing the grant requests **and**
13 **implementing** the grants requires management attention and expertise, part of a professionally-
14 run business organization. CUC has **placed** ARRA grants out for bid, so **that** these benefits can
15 start flowing. CUC **must** evaluate its needs, and hire and contract for the needed technical
16 specialists to manage the grant-funded projects. This requires a corporate structure capable of
17 making and sustaining important decisions.
18

19 72. I can only conclude that the legislation's extraordinary structure for CUC is the result of a
20 drafting error, and the **People**, through their elected representatives, wish their **utility** company to
21 continue to supply them with **essential** services at a reasonable cost, meeting industry standards.
22



23 **Fixing CUC's technical insolvency**

24
25
26 73. CUC has **been** unable to borrow money to run its operations **since** the inception of **this** State
27 of Disaster Emergency due to (a) its poor **financial** condition and (b) the existence on its books
28 of a liability to the Commonwealth Development Authority ("**CDA**") of **approximately** \$115
29 million. **This** situation **may** be corrected if the Executive Director is recognized to have the
30 **authority** to correct it. Part of this situation, the **CDA** relationship, **has been** corrected precisely
31 **because** the Executive Director **was** empowered by this Executive Order to do so.
32

33 74. Meanwhile, billings and collections are substantially below the levels required to prudently
34 manage CUC's **current** operations **and** provide for system repairs, replacements and upgrades.
35 For example, billings alone for water and wastewater are less than 70% of requirements to run
36 those two systems. **This will** change as the PUC's June 2010 rate **increase** takes effect.
37

38 75. The booked **CDA** obligation rendered CUC **nominaly** insolvent. **While** CUC was deemed
39 insolvent, CUC could not borrow money. But CUC must be able to borrow money to bridge the
40 gap between (a) the need to spend money on essential goods and **services** to provide electricity,

1 water and sewage service, and (b) the lagged **collection** of already-determined-insufficient
2 revenues **from** the sale of those **services**.

3
4 76. The CPUC, in its September 3, 2009, **electric** order, Docket No. 09-1, approved a CUC-
5 CDA settlement converting the CDA debt to **preferred** stock. But the **deal** has required **CUC's**
6 Board to **agree** to it.

7
8 77. There is no Board. **CUC** has functioned without a Board of Directors, because it has had to.
9 While CUC's enabling act, reenacted as PL 16-17, as amended, authorizes a Board, there is no
10 CUC Board yet because, while the **staff** of the Governor's **office** have diligently tried to **find**
11 Board volunteers who meet the **complex** statutory qualifications, they have been unable to do so.
12 **Nonetheless**, **CUC** must **continue** to **function**, including **borrowing** money.

13
14 78. EO 2009-08's Directive # 9 provides the required authority to the Executive Director. It
15 also permits him to **continue** to run CUC, carefully manage cash to pay tens of **millions** of
16 dollars **annually** for **fuel** oil and purchased power, and do all the things necessary to providing
17 power, water and wastewater services, until the remaining **members** of a properly constituted
18 Board can be identified, confirmed, and convened for business. In February 2010 the Executive
19 Director delivered to CDA management the stock **certificates** required for the debt-equity
20 conversion. **CUC** has received the **fully** executed **copy** of the Stipulated Notice of Dismissal
21 (with prejudice) in CDA v. CUC, Superior Court Civil Action No. 01-0248D (4/21/2010), which
22 the CPUC has required that CDA provide to make **effective** the conversion of the CDA debt to
23 preferred equity. CUC has sought Public Utilities Commission **final** approval. The **Commission**
24 provided that approval in the rate order authorized at its May 28, 2010, **business** meeting. Soon,
25 CUC must be able to demonstrate to the financial **community** that it is properly managed, so that
26 it can borrow and pay **back** **long term** capital



29 **Providing the basis for proper CPUC oversight**

30
31 79. The broad and comprehensive statutory scheme of utility **regulation** in the **Public** Utility Act,
32 4 CMC §§ 8401-84, provides that the utility regulator, the CPUC, **will** **carefully** examine CUC
33 activities, particularly financial activities.

34
35 80. **This** extensive oversight satisfies the policy need for a body of arms-length, well-informed
36 citizens to watchdog the activities of this, the Commonwealth's key resource. **Thus**, the statute's
37 error-infused creation of a volunteer Board which would run the corporation on a day-to-day
38 basis, **becomes** much less important than **satisfying** CPUC requirements.

39
40 81. What becomes very important is **CUC's** **capability** to provide the **CPUC** with accurate and
41 timely financial and accounting information. But such reporting is not possible without a

1 competent, trained staff of accounting and financial experts at CUC, and a properly-empowered
2 Executive Director to lead them.

3
4 a

5 Addressing a critical financial challenge

6
7 82. CUC faced a financial crisis in June 2010. It was critically short of funds to buy oil.
8 Without oil CUC would be forced to shut down its generation, bringing the economy of the
9 CNMI to a halt, and endangering health and welfare as electricity-dependent operations ceased –
10 sewage treatment, water pumping, traffic lights and security lighting, air conditioning for the
11 elderly, infants, and other medically fragile persons, and equipment at the CNMI's Hospital and
12 health clinics. The principal reason for the shortage was the Government's failure to pay
13 millions of dollars of utility bills. The Government was in arrears about four months on its bills.
14 Only by eliminating restrictions on the Governor's power to reprogram funds to address this
15 issue was crisis averted.

16
17 83. CUC only had a day or two's worth of purchased oil to power its system because it lacked
18 the funds to buy oil from its sole, cash-only supplier.

19
20 84. The Executive Director was required to spend substantial time on a concentrated basis
21 interacting with high CNMI government officials as well as developing contingency plans for
22 the orderly shutdown of the CUC system.

23
24 85. Fortunately, the Administration was able to develop a multi-stage plan to enable the
25 payment of enough CNMI Government bills, and the reprogramming of CUC funds to forestall
26 disaster. The Government is still, however, about two months in arrears on its bills.

27
28 86. In order to facilitate this solution, the Governor issued a Declaration of Disaster Emergency
29 (June 8, 2010).

30
31 87. Development of this temporary financial rescue plan would not have been possible without
32 the dedicated, focused effort of a properly empowered Executive Director. Such financial
33 conditions may continue unless the Government, and other large CUC customers, can be brought
34 current, and remain current, on their bills. This may present a challenge for CUC, given the
35 stressed financial conditions of the Commonwealth. A properly empowered Executive Director
36 will be required to address this challenge.

37
38 88. On May 11, 2010, CUC submitted to EPA a draft organization evaluation and
39 reorganization plan. But on June 14, 2010, the EPA assessed CUC a \$140,000 penalty for
40 failing to submit timely such a plan. EPA has yet to approve a master plan for CUC. In a July
41 1, 2010, official letter EPA stated its belief that CUC still lacked the technical capability to put

1 together “adequate” submissions. Importantly, CUC requires a **functioning** management,
2 **including** a properly empowered Executive Director to forestall any such additional EPA
3 punitive action.
4

5 
6 **CRISIS FROM THE LACK OF LEGISLATIVE ACTION**

7
8 89. There is no Legislative relief coming. For months CUC has repeatedly asked the
9 **Legislature** for such relief, **including** submission of draft legislation in July. **The** Legislature has
10 declined to **respond**. There is no alternative to providing this relief other than an order from the
11 Governor. Inaction will produce a disaster in **which** CUC **is unable** to provide its critical
12 **community services**. Directives # 9 and #10 were **designed to avert** this crisis. (The **other**
13 Directives, #1 through #8, are no longer relevant, and were discontinued.)
14

15 90. This Declaration is necessary to protect the health and safety of our children, our senior
16 citizens, businesses and all other CNMI residents and visitors.
17

18 
19 **CONCLUSION AND ORDER**

20
21 Therefore, I hereby **invoke** my authority under Article **III**, § 10, of the **Commonwealth**
22 Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threat
23 **facing** the Commonwealth of the Northern Mariana Islands.
24

25
26 Exercise of the Constitutional and statutory authority invoked herein will be effectuated by the
27 issuance of Executive Directives setting forth the measures to be taken to **address** the State of
28 Disaster Emergency pursuant to 3 CMC § 5121(f), which states:
29

30 (f) In addition to any other powers conferred upon the Governor by law, the Governor
31 **may, during** a state of disaster emergency:

32
33 (1) Suspend the provisions of any regulatory statute prescribing the procedures
34 for conduct of the Commonwealth's business, or the orders, rules, or regulations
35 of **any** Commonwealth activity or agency, if strict compliance with the provision
36 of any such statute, order, rule or regulation would in **any** way prevent, hinder, or
37 delay necessary action in coping with the emergency;

38
39 (2) Utilize all available resources of the Commonwealth **as** reasonably necessary
40 to cope with the disaster emergency of the Commonwealth;
41

1 (3) Transfer the **direction**, personnel, or **functions** of the Commonwealth
2 departments and agencies or **units** thereof for the purpose of performing or
3 **facilitating** emergency services;
4

5 3 CMC § 5121(f)(1)-(3).
6

7 By today's disaster emergency declaration, I intend to enable CUC to continue to provide
8 necessary service to the people of the Commonwealth.
9

10 This Declaration of a **State** of Disaster Emergency shall take **effect** immediately ~~and~~ **all**
11 memoranda, directives and other **measures** taken in accordance with this **Declaration shall**
12 **remain in effect** for thirty (30) days **from the date of this** Executive Order unless I, prior to the
13 end of the thirty (30)-day period, **notify** the Presiding Officers of the Legislature that the state of
14 emergency has been lifted or has been extended for an additional period of thirty (30) days. 1
15 CMC § 7403(a); 3 CMC § 5121(c).
16

17 A comprehensive report on the exercise of my constitutional authority ~~shall~~ be **transmitted** to the
18 **presiding** officers of the Legislature as soon as practicable in accordance with 1 CMC § 7403(a).
19

20 **DIRECTIVES**

21 I direct the following:
22

23 Directive 1: Deleted.
24

25 Directive 2: **Deleted**.
26

27 Directive 3: Deleted.
28

29 Directive 4: Deleted.
30

31 Directive 5: Deleted.
32

33 Directive 6: Deleted.
34

35 Directive 7: Deleted
36

37 Directive 8: Deleted.
38
39
40

1 Directive 9: The Executive Director of CUC shall have all the **powers** of the CUC Board,
2 thereby **enabling** him to **carry** out all critical business of CUC, pending the earlier of either (1)
3 the **confirmation** and convening of an operating CUC Board, or (2) the termination of the
4 authority of this order. In particular, the Executive Director **shall** have **full power** and authority
5 to agree to swap CDA **debt** and related obligations for preferred **stock** and related features and
6 rights.

7
8 Directive 10: The following strike-out-formatted language of the quoted provisions of the
9 following statute regulating government employment is, **as** indicated, suspended immediately

10
11 § 4532. Exemptions.

12
13 Persons **other** than citizens and **permanent** residents **may** be exempted from the
14 employment restriction in 3 CMC §4531 and employed within ~~the following government~~
15 entities and **positions, on a case by case basis:**

16
17 ~~(a) Department of Public Health. United States or Canadian board-certified physicians~~
18 ~~and dentists licensed to practice in the Commonwealth;~~

19 ~~(b) Department of Commerce. Temporary or part-time employees as needed for censuses~~
20 ~~and statistical surveys;~~

21 ~~(c) Government translators. Approved foreign national translators for: the Department of~~
22 ~~Labor, the Office of the Attorney General, the Office of the Public Defender, the~~
23 ~~Department of Public Safety, the Commonwealth Superior Court, the Commonwealth~~
24 ~~Supreme Court, and the Marianas Visitors Authority. The Attorney General **shall**~~
25 establish guidelines for the approval of foreign national translators for the Executive
26 Branch. The Supreme Court may establish guidelines for the approval of foreign national
27 translators **for** the Judiciary.

28
29
30 3 CMC § 4532, as **most** recently amended by PL 17-1. (Strikeout is **deliberately** added) That is,
31 the **following language** is suspended: "the **following**", "on a case by **case** basis" and the
32 following listing:

33
34 " (a) Department of Public Health. United States or Canadian **board-certified** physicians
35 and dentists licensed **to** practice in **the** Commonwealth.

36 " (b) Department of Commerce. Temporary or part-time **employees** as needed for censuses
37 and statistical surveys.

38 " (c) Government translators. Approved foreign national translators for: the Department of
39 Labor, the Office of the Attorney **General**, the Office of the Public Defender, the Department of
40 Public Safety, the Commonwealth Superior Court, the Commonwealth Supreme Court, and the
41 Marianas Visitors Authority."

1 I further suspend and delete the "moratorium" of sec. 4601:
2

3 § 4601. Moratorium.
4

5 ~~There is hereby enacted a moratorium on the hiring of foreign national workers;~~
6 ~~as defined in 3 CMC §4911. This moratorium shall be read in conjunction with~~
7 ~~Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly~~
8 ~~construed and adhered to by all agencies and instrumentalities of the~~
9 ~~Commonwealth government.~~

10
11 3 CMC § 4601 as most recently amended by PL 17-1. **(Strikeout is deliberately added)** ~~That~~ is,
12 the following language is suspended immediately: "There is hereby enacted a moratorium on the
13 hiring of foreign national workers, as defined in 3 CMC §4911. This moratorium ~~shall~~ be read in
14 conjunction with Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly
15 construed and adhered to by **all agencies and** instrumentalities of the **Commonwealth**
16 **govement.**"

17
18 I hereby direct that the effect of the suspension of the indicated language shall be that CUC shall
19 have the complete power, without regard to citizenship or otherwise **lawful** immigration status,
20 to hire **engineers**, professional employees in technical or trade areas, power plant mechanics and
21 utility **technicians**, either directly or indirectly. I ~~further~~ direct that ~~these~~ **professional** employees
22 may **include**, but shall not be limited to, sanitarians, engineers, accountants, **financial** experts,
23 **information** technology specialists, mechanics, electricians, **well-drillers, pipefitters, plumbers,**
24 wastewater treatment **facilities** operators, laboratory specialists and other trades technicians and
25 their professional managers.
26

1 I further direct **generally** that the suspension of the language for **specified** agencies and the
2 **specified** positions shall not be held as a limitation as to unnamed agencies and instrumentalities,
3 but shall continue to permit other government entities to continue to fill needed positions,
4 particularly in the areas of health care, census and translation/interpretation. Additionally,
5 suspension of the term "on a case by case basis" **shall** permit government entities, including,
6 notably, CUC, to develop **programs** and procedures that **avoid the** delays inherent in creating or
7 obtaining case-by-case reviews and approvals. Finally, suspension of the moratorium is not
8 intended to impede the **efforts** of CNMI agencies and **instrumentalities** in **lawfully** identifying
9 and filling positions with **qualified** citizens and legal residents.

10
11
12 Done this 21st day of August, 2010.

13
14
15
16
17
18 
19 BENIGNO R. FITIAL
Governor

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lieutenant Governor

MEMORANDUM

DATE: October 22, 2010
DIRECTIVE NO. 276

TO: All Department and Activity Heads

FROM: Governor

SUBJECT: Implementation of 64-hour workweek

Please be advised that pursuant to Public Law 17-21, the Executive Branch will be implementing a 61-hour work schedule beginning with the pay period that starts on October 24, 2010.

In observance with this Directive, the following schedule of business hours for departments/activities under the Executive Branch shall be adhered to:

Pay Period Week #1

Monday – Thursday: 8:30am – 4:30pm

Friday: 7:30am-4:30pm

Pay Period Week #2

Monday – Thursday: 8:30am – 4:30pm

Friday: CLOSED

At this time, this Directive shall be observed by all locally-funded and federally-funded employees under the Executive Branch. While I recognize that certain offices and/or functions may be required to adopt a modified 64-hour work schedule to meet certain needs and requirements, written requests must be submitted to my office and must be approved before any modified 64-hour work schedule may be implemented.

Furthermore, this Directive shall not apply to critical service personnel such as sworn police officers, fire fighters, corrections officers, juvenile detention unit officers, physicians and nurses. These personnel shall continue to report for duty pursuant to their respective approved work schedules.

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200 /2300 Facsimile:(670) 664-2211/231.1

In view of the aforementioned revised schedule of operations, it is important that all affected departments/activities ensure that all necessary actions are taken to ensure that your respective staff report for duty in accordance to this Directive.

This Directive shall remain in effect until such time that it is rescinded or superseded by a subsequent directive to address certain needs as they *arise*.



BENIGNO R. FITIAL

ec: Lt. Governor

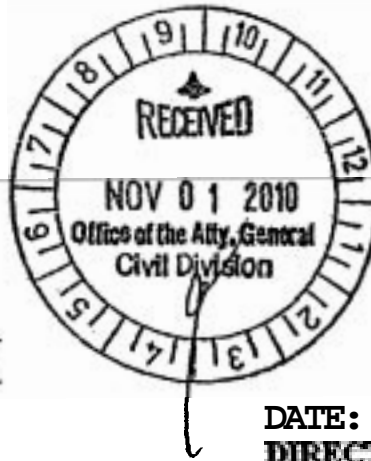
Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200/2300 Facsimile: (670) 664-2211/2311



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lieutenant Governor



MEMORANDUM

DATE: October 27, 2010
DIRECTIVE NO. 277

TO: ALL BRANCHES, DEPARTMENTS, AND AGENCIES
FROM: Governor
SUBJECT: Declaration of Citizenship Day, November 4, 2010 holiday with pay

Pursuant to Public Law 17-21 Section 605(c), I hereby declare Citizenship Day, November 4, 2010 as a holiday which shall be paid as detailed herein.

Government employees who are not scheduled to work on Citizenship Day shall be paid charging available annual leave hours for this holiday. Government employees who are scheduled to work on this holiday shall be paid their regular pay.

I take this step to ease the financial impact on our employees and their families as a result of having both the Election Day and Citizenship Day holidays in the same week.

BENIGNO R. FITIAL

DIRECTIVE

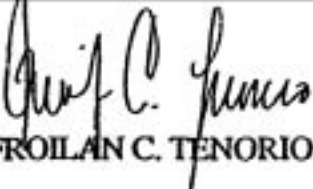
DATE: 24 AUG 1994
NO. 071

TO : Chairperson, Civil Service Commission

FROM : Governor

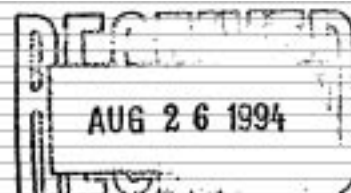
SUBJECT : Withdrawal of Directive No. 17 - Re-issuance of Directive on Executive Order 94-3, Section 214(c), Personnel Management Functions

Effective immediately, Section 214(c) of Executive Order 94-3, Re-organization Plan No. 2 of 1994, provides that boards and commissions, including the Civil Service Commission, to the extent of budgetary resources, may ~~retain~~ or establish personnel management functions within their organizations, or, by agreement may arrange with the Office of Personnel Management (Office of the Governor) to perform such functions on their behalf.



FROILAN C. TENORIO

CC: Members, Civil Service Commission



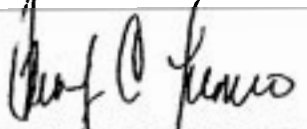
DIRECTIVE

DATE: 24 AUG 1994
NO. 072

TO : Personnel Officer
FROM : Governor
SUBJECT : Withdrawal of Directive No. 18 - Re-issuance of Directive on Executive Order 94-3, Section 214, Personnel Office Abolished and Functions Transferred

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, effective immediately, the Personnel Office is ~~abolished~~ and its functions transferred to the Office of Personnel Management.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503.504. and 505.


FROILAN C. TENORIO

CC: Chairperson and Members, Civil Service Commission
Special Assistant for Administration

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DIRECTIVE

DATE: 24 AUG 1994
NO. 073

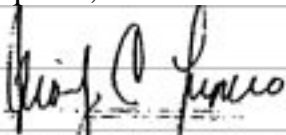
TO : Director, Division of Environmental Quality
Director of Public Health
Director of Public Works

FROM : Governor

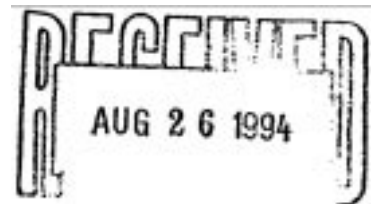
SUBJECT : Withdrawal of Directive No. 19 - ~~Re-issuance~~ of Directive on Executive Order 94-3,
Section 304(d) Division of Environmental Quality **Transferred**

This is to inform you **that**, in accordance with **Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 304(d), effective** immediately, **the** Division of Environmental Quality **is transferred from** the Department of Public Health to the Department of **Public Works**.

The procedures for **transferring** authority, **funds**, records, property, and personnel, should this be required, are set forth in **Part 5** of the Executive **Order**, Sections 503.504, and 505.



FROILAN C. TENORIO



DIRECTIVE

DATE: 24 AUG 1994
NO. 074

TO : Commonwealth Council for Arts and Culture
Secretary of Community and Cultural Affairs

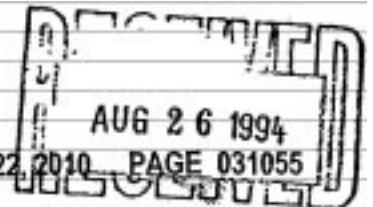
FROM : Governor

SUBJECT : Withdrawal of Directive No. 20 - Commonwealth Council for Arts and Culture

This is to inform you that DIRECTIVE #20 is hereby withdrawn.



FROILAN C. TENORIO



DIRECTIVE

DATE: 24 AUG 1994
NO. 075

TO : Sr. Land Commissioner
Secretary of **Lands** and Natural Resources

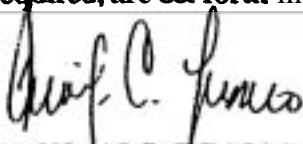
FROM : Governor

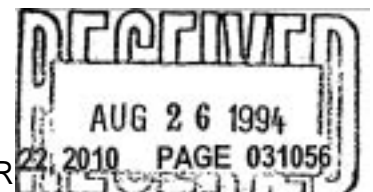
SUBJECT : Withdrawal of Directive No. 21 - Re-issuance of Directive on Executive Order 94-3,
Section **306(b)**, Land Commission **Abolished** and Functions Transferred

This is to **inform** you that, in accordance with **Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 306(b)**, effective **immediately**, the **Land** Commission is abolished and its functions are transferred to a Division of Land Registration, which is hereby **created** within the Department of **Lands** and Natural Resources.

All employees of the Land Commission shall continue in **their** present positions. The Senior Land Commissioner is hereby **re-designated as** the **Director** of Land Registration, and the Deputy Land Commissioners are hereby re-designated as **Deputy Directors** of Land Registration.

The procedures for **transferring** authority, funds, **records**, property, and personnel, should this be required, are **set forth** in Part 5 of the **Executive Order**. Sections 503.504, and 505.


FROILAN C. TENORIO

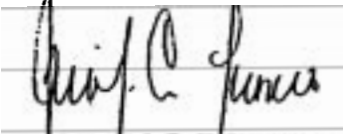


DIRECTIVE

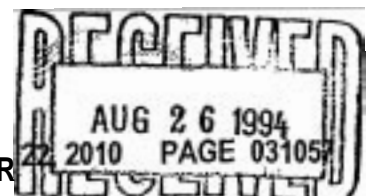
DATE: 25 AUG 1994
NO. 076

TO : **Secretary** of Finance
FROM : Governor
SUBJECT : **Withdrawal of Directive No. 22 - Re-issuance of Directive on Executive Order 94-3, Section 307(b), Outside Contractors**

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 307(b), effective immediately, all functions ~~that the Civil Service Commission or the Personnel Office may have exercised relating to the procurement of services from outside contractors~~ are hereby transferred to the Secretary of Finance.


FROILAN C. TENORIO

CC: **Personnel Officer**
Office of Personnel Management

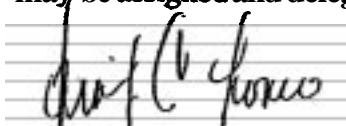


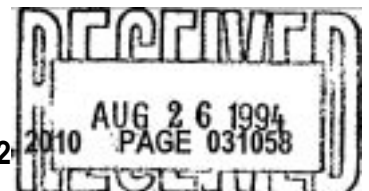
DIRECTIVE

DATE: 24 AUG 1994
NO. 077

TO : Attorney General
FROM : Governor
SUBJECT : Withdrawal of Directive No. 23 - Re-issuance of Directive on Executive Order 94-3,
Section 309, Division of Intergovernmental Relations Abolished

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 309, effective immediately, the Division of Intergovernmental Relations is abolished. Its functions may be assigned and delegated by the Attorney General.


FROILAN C. TENORIO

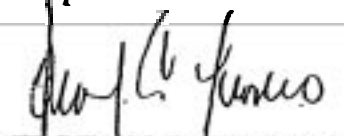


DIRECTIVE

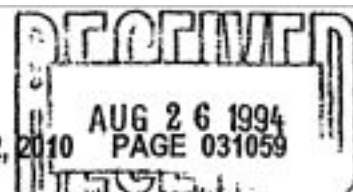
DATE: 24 AUG 1994
NO. 078

TO : Attorney General
FROM : Governor
SUBJECT : Withdrawal of Directive No. 24 - Re-issuance of Directive on Executive Order 94-3,
Section 207, Corporate Charters

This is to inform you that, *in* accordance with Executive Order 94-3. Re-organization Plan No. 2 of 1994. Section 207, effective immediately, all functions of the Governor relating to corporate charters pursuant to Chapter 1 of 4 CMC Division 4 are hereby delegated to the Attorney General.


FROILAN C. TENORIO

CC: Registrar of Corporations



DIRECTIVE

DATE: 24 AUG 1994
NO. 079

TO : Chairpersons and Members, Termination of Trusteeship Task Force and the Task Force on Privatization of Government Services

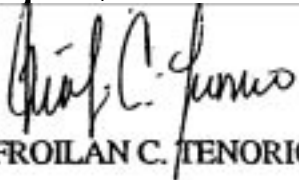
FROM : Governor

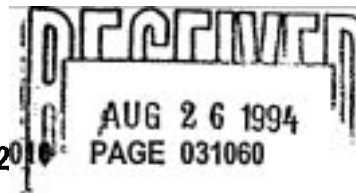
SUBJECT : **Withdrawal of Directive** No. 25 - Re-issuance of **Directive** on Executive Order 94-3, Section 406. **Termination of Trusteeship Task Force and the Task Force** on Privatization of Government Services Abolished

This is to inform you that in accordance with **Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 406, effective immediately, the Termination of Trusteeship Task Force and the Task Force** on Privatization of Government Services ~~are~~ abolished.

Their **records**, property, facilities, equipment ~~and~~ supplies are to be **transferred** to ~~the~~ **Office of the** Governor. Please contact my **office** if you ~~have~~ any records or property belonging to one of ~~these~~ task forces.

~~The~~ procedures for transferring authority, funds, **records**, property, **and** personnel, should ~~this~~ be required, are set forth in ~~Part~~ 5 of the **Executive Order. Sections 503, 504, and 505.**


FROILAN C. TENORIO



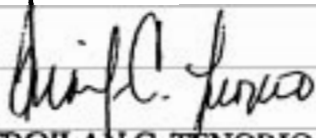
DIRECTIVE

DATE: 29 AUG 1994
NO. 080

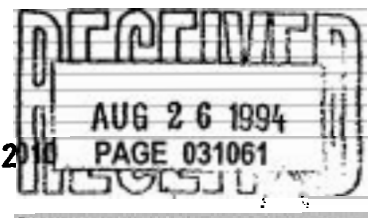
TO : Chairperson and Members, Wage and Salary Review Board
FROM : Governor
SUBJECT : Withdrawal of Directive No. 26 - Re-issuance of Directive on Executive Order 94-3, Section 301(3)(b), Wage and Salary Review Board Abolished

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 301(3)(b), effective immediately, the Wage and Salary Review Board is abolished. Its records, property, facilities, equipment and supplies are transferred to the Department of Labor and Immigration.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503, 504, and 505.


FROILAN C. TENORIO

CC: Secretary of Labor and Immigration
Secretary of Commerce



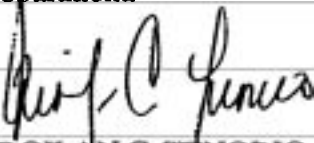
DIRECTIVE

DATE: 24 AUG 1994
NO. 081

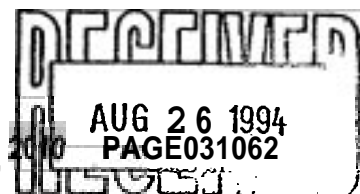
TO : Chairperson and Members, ~~State~~ Planning Council on Developmental Disabilities
FROM : Governor
SUBJECT : Withdrawal of Directive No. 27 - Re-issuance of Directive on Executive Order 94-3, Section 305(b), ~~State~~ Planning Council on Developmental Disabilities Allocated

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 305(b), effective immediately, ~~the~~ State Planning Council on Developmental Disabilities is allocated to the Department of Public Health for ~~purposes~~ of administration and coordination.

Section 507 of the Executive Order defines the relationship that will prevail between the Council and the Department.


FROILAN C. TENORIO

CC: Secretary of Public Health



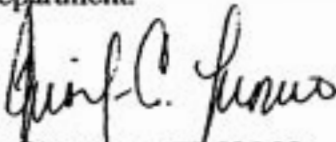
DIRECTIVE

DATE: 24 AUG 1994
 NO. 082

TO : Chairperson and Members, State Rehabilitation Advisory Council
FROM : Governor
SUBJECT : Withdrawal of Directive No. 28 - ~~Re-issuance~~ of Directive on Executive Order 94-3, Section 305(b), State Rehabilitation Advisory Council Allocated

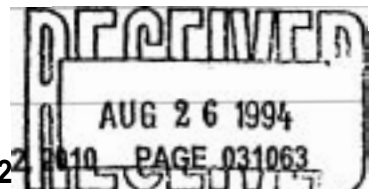
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 305(b), effective immediately, the State Rehabilitation Advisory Council is allocated to the Department of Public Health for purposes of administration and coordination.

Section 507 of the Executive Order defines the relationship that will prevail between the Council and the Department.



FROILAN C. TENORIO

CC: Secretary of Public Health



DIRECTIVE

DATE: 24 AUG 1994
NO. 083

TO : Chairperson and Members, Saipan Street Directory Commission

FROM : Governor

SUBJECT : Withdrawal of Directive No. 29 - Re-issuance of Directive on Executive Order 94-3, Section 404, Saipan Street Directory Commission Abolished

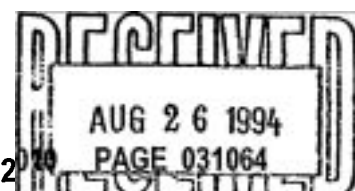
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 404, effective immediately, the Saipan Street Directory Commission is abolished. Its records, property, facilities, equipment and supplies are to be transferred to the Office of the Mayor of Saipan.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order. Sections 503, 504, and 505.



FROILAN C. TENORIO

CC: Mayor of Saipan



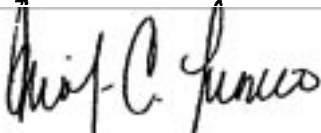
DIRECTIVE

DATE: 24 AUG 1994
NO. 084

TO : Chairperson and Members, Coastal Resources Appeals Board
FROM : Governor
SUBJECT : Withdrawal of ~~Directive~~ No. 30 - Re-issuance of Directive on Executive Order 94-3, Section 401(e), Coastal ~~Resources~~ Appeals Board Abolished and Functions Transferred

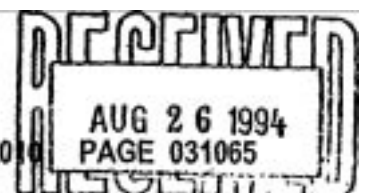
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 401(e), effective immediately, the Coastal ~~Resources~~ Appeals Board is abolished. Its functions are transferred to the Development Appeals Board.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order. Sections 503, 504, and 505.



FROILAN C. TENORIO

CC: Administrator, Coastal Resources Management Office
Chairperson, Development Appeals Board



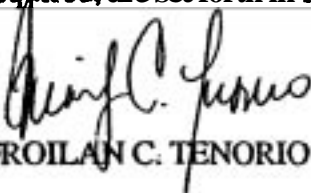
DIRECTIVE

DATE: 24 AUG 1994
NO. 085

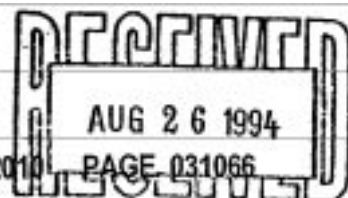
TO : Chairperson and Members, Building Safety Code Appeals Board
FROM : Governor
SUBJECT : Withdrawal of Directive No. 31 - Re-issuance of Directive on Executive Order 94-3, Section 401(e), Building Safety Code Appeals Board Abolished and Functions Transferred

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 401(e), effective immediately, the Building Safety Code Appeals Board is abolished. Its functions are transferred to the Development Appeals Board.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order. Sections 503, 504, and 505.


FROILAN C. TENORIO

CC: Secretary of Public Works
Chairperson, Development Appeals Board



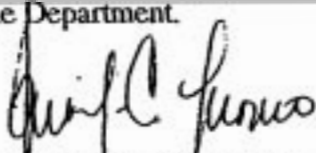
DIRECTIVE

DATE: 24 AUG 1994
NO. 086

TO : Secretary of Public Works
FROM : Governor
SUBJECT : Withdrawal of Directive No. 32 - Re-issuance of Directive on Executive Order 94-3, Section 304(b), Commonwealth Utilities Corporation Allocated

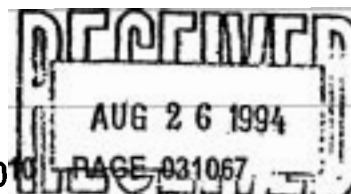
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 304(b), effective immediately, the Commonwealth Utilities Corporation is allocated to the Department of Public Works for purposes of administration and coordination.

Section 507 of the Executive Order defines the relationship that will prevail between the Corporation and the Department.



FROILAN C. TENORIO

CC: Executive Director, Commonwealth Utilities Corporation



DIRECTIVE

DATE: 24 AUG 1994
NO. 087

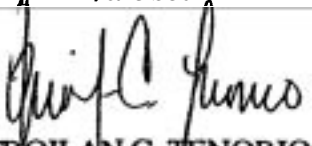
TO : Administrator, Coastal Resources Management Office

FROM : Governor

SUBJECT : Withdrawal of Directive No. 33 - Re-issuance of Directive on Executive Order 94-3, Section 206(a), Coastal Resources Management Office Transferred

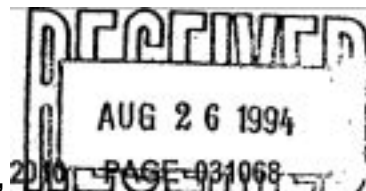
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 206(a), effective immediately, the Coastal Resources Management Office is transferred to the Department of Lands and Natural Resources.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order. Sections 503.504. and 505.



FROILAN C. TENORIO

CC: Secretary of Lands and Natural Resources
Directors, Coastal Resources Management Office



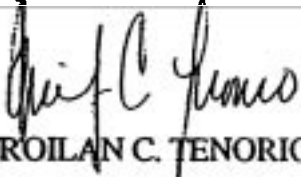
DIRECTIVE

DATE: 24 AUG 1994
NO. 088

TO : Executive Secretary, Commonwealth Lottery Commission
FROM : Governor
SUBJECT : Withdrawal of Directive No. 34 - Re-issuance of Directive on Executive Order 94-3, Section 307(a), Commonwealth Lottery Commission Abolished and Functions Transferred

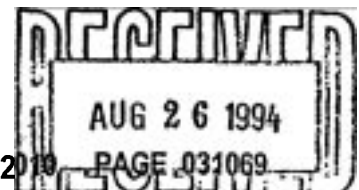
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 307(a), effective immediately, the Commonwealth Lottery Commission is abolished. Its functions are transferred to the Department of Finance. The Secretary of Finance shall consult with the Secretary of Commerce and the Attorney General as necessary for the effective administration of such functions.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503, 504, and 505.



FROILAN C. TENORIO

CC: Secretary of Finance
Secretary of Commerce
Attorney General



DIRECTIVE

DATE: 24 AUG 1994
NO. 089

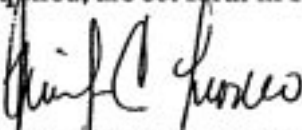
TO : ~~Special Assistant for Political Affairs~~

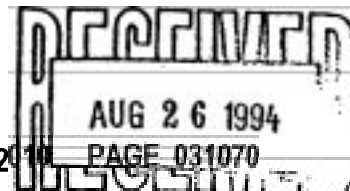
FROM : Governor

SUBJECT : Withdrawal of Directive No. 35 - Re-issuance of Directive on Executive Order 94-3, Section 102, Special Assistant for Public Liaison Re-designation

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 102, effective immediately, the Special Assistant for Political Affairs is re-designated as the Special Assistant to the Governor for Public Liaison and shall head the Office of Public Liaison.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order. Sections 503, 504, and 505.


FROILAN C. TENORIO

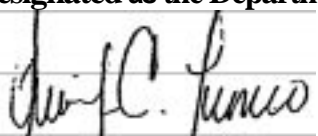


DIRECTIVE

DATE: 26 AUG 1994
NO. 090

TO : Director of Public Health and Environmental Services
FROM : Governor
SUBJECT : Withdrawal of Directive No. 36 - Re-issuance of Directive on Executive Order 94-3, Section 106(a), Department of Public Health Re-designated

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 106(a), effective immediately, the Department of Public Health and Environmental Services is re-designated as the Department of Public Health.


FROILAN C. TENORIO

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PAGE 031071

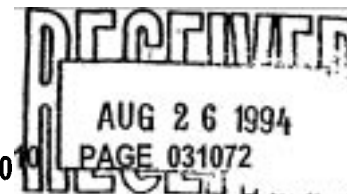
DIRECTIVE

DATE: 24 AUG 1994
NO. 091

TO : Secretary of Public Health
FROM : Governor
SUBJECT : Withdrawal of Directive No. 37 - on Health Planning and Development Agency and the Health Coordination Council Allocated

This is to inform you that DIRECTIVE No. 37 is hereby withdrawn.


FROILAN C. TENORIO



DIRECTIVE

DATE: 24 AUG 1994
NO. 092

TO : Director of Personnel
Office of Personnel Management

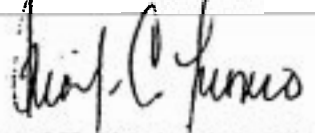
FROM : Governor

SUBJECT : Withdrawal of Directive No. 38 - Re-issuance of Directive on Executive Order 94-3,
Section 214, Administrative Services Division Transferred

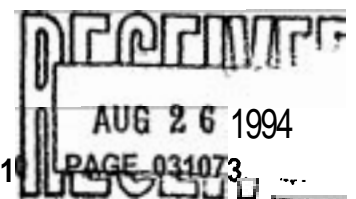
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 214, effective immediately, you are requested to transfer the employees of your Administrative Services Division (staff housing office) to the Department of Public Works.

An inventory of all government-owned property will be made prior to the actual move from your office to the Department of Public Works. One copy of this inventory will be maintained by your office and one copy shall be presented to the Secretary of Public Works. All such property is to be permanently transferred to the Department of Public Works.

Please make sure that the transfer of authority, funds, records, property, and personnel is accomplished in accordance with Part 5 of the Executive Order, Sections 503, 504, and 505.


FROILAN C. TENORIO

CC: Chairperson and Members, Civil Service Commission



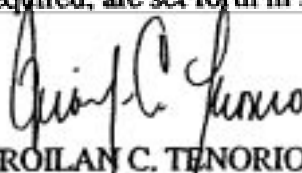
DIRECTIVE

DATE: 24 AUG 1994
NO. 093

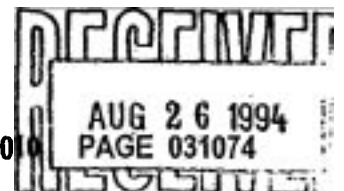
TO : Chairperson and Members, Alcoholic Beverage Control Board
FROM : Governor
SUBJECT : Withdrawal of Directive No. 39 - Re-issuance of Directive on Executive Order 94-3, Section 209, Temporary Alcoholic Beverage Licenses Authority Transferred

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 209, effective immediately, the authority of the Governor under 4 CMC §5525 to issue temporary licenses for the sale of alcoholic beverages by non-profit organizations is transferred to the Secretary of Commerce.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503, 504, and 505.


FROILAN C. TENORIO

CC: Secretary of Commerce



DIRECTIVE

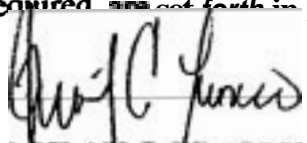
DATE: 24 AUG 1994
NO. 094

TO : Chairperson and Members, ~~Statistical~~ Advisory Council
FROM : Governor
SUBJECT : Withdrawal of Directive No. 40 - Re-issuance of Directive on Executive Order 94-3, Section 302(d), Statistical Advisory Council Abolished

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 302(d), effective immediately, the Statistical Advisory Council is abolished. Its records, property, facilities, equipment, and supplies are to be transferred to the Department of Commerce.

The Secretary of Commerce shall solicit from all activities of the Commonwealth Government, including those of the Legislative and Judicial Branches, and from the private sector as appropriate, their needs for government statistics and shall consider such needs when determining what statistics to collect, compile, and report

The procedures for transferring authority, funds, records, property, and personnel should be required as set forth in Part 5 of the Executive Order, Sections 503, 504, and 505.


ROILAN C. TENORIO
GOVERNOR

CC: Secretary of Commerce

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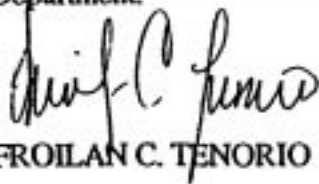
DIRECTIVE

DATE: 24 AUG 1994
NO. 095

TO : Chairperson and Members, Commonwealth Library Council
FROM : Governor
SUBJECT : Withdrawal of Directive No. 41 - Re-issuance of Directive on Executive Order 94-3, Section 308(e), Commonwealth Library Council Allocated

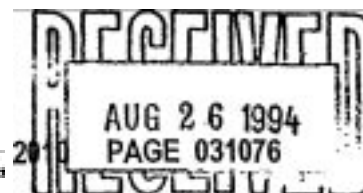
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 308(e), effective immediately, the Commonwealth Library Council is allocated to the Department of Community and Cultural Affairs for purposes of administration and coordination.

Section 507 of the Executive Order defines the relationship that will prevail between the Council and the Department.



FROILAN C. TENORIO

CC: Secretary of Community and Cultural Affairs



DIRECTIVE

DATE: 24 AUG 1994
NO. 096

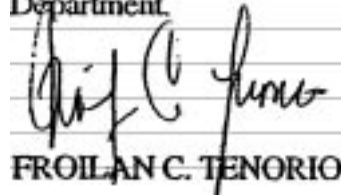
TO : Chairperson and Members, Commonwealth Ports Authority Board

FROM : Governor

SUBJECT : Withdrawal of Directive No. 42 - Re-issuance of Directive on Executive Order 94-3, Section 304(a), Commonwealth Ports Authority Allocated

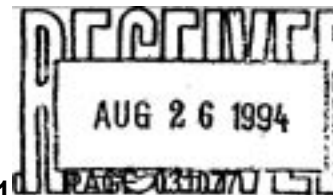
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 304(a), effective immediately, the Commonwealth Ports Authority is allocated to the Department of Public Works for purposes of administration and coordination.

Section 507 of the Executive Order defines the relationship that will prevail between the Authority and the Department.



FROILAN C. TENORIO

CC: Executive Director, Commonwealth Ports Authority
Secretary of Public Works



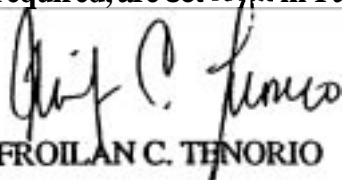
DIRECTIVE

DATE: 24 AUG 1994
NO. 097

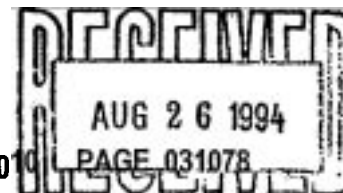
TO : Chairperson and Members, Alcoholic Beverage Control Board
FROM : Governor
SUBJECT : Withdrawal of Directive No. 43 - Re-issuance of Directive on Executive Order 94-3, Section 302(c), Alcoholic Beverage Control Board Abolished and Functions Transferred

This is to inform you that, in accordance with Executive Ordw 94-3, Re-organization Plan No. 2 of 1994, Section 302(c), effective immediately, the Alcoholic Beverage Control Board is abolished and its functions transferred to the Secretary of Commerce.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503.504. and 505.


FROILAN C. TENORIO

CC: Secretary of Commerce



DIRECTIVE

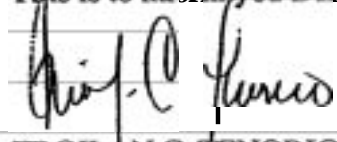
DATE: 24 AUG 1994
NO. 098

TO : Director of Personnel
Office of Personnel Management

FROM : Governor

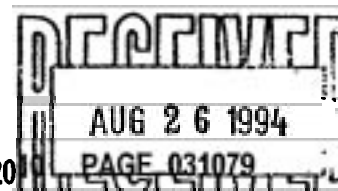
SUBJECT : Withdrawal of Directive No. 44 - Training Division Transferred

This is to inform you DIRECTIVE No. 44 is hereby withdrawn



FROILAN C. TENORIO

CC: Chairperson and Members, Civil Service Commission
Chairperson and Members, Board of Regents
President, Northern Marianas College



DIRECTIVE

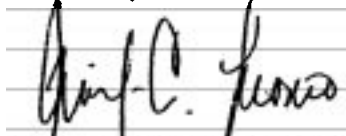
DATE: 24 AUG 1994
NO. 099

TO : Executive Director, Marianas Public Land Corporation
FROM : Governor
SUBJECT : Withdrawal of Directive No. 45 - Re-issuance of Directive on Executive Order 94-3, Section 306(a), Marianas Public Land Corporation Dissolved and Functions Transferred

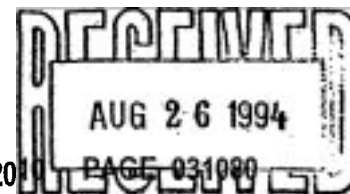
This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 306(a), effective immediately, pursuant to Section 4(f) of Article XI of our Constitution, the Marianas Public Land Corporation is dissolved and its functions transferred to the Division of Public Lands in the Department of Lands and Natural Resources, which shall have at its head a Director of Public Lands.

Other sections of the Executive Order which may be of related interest are 105 and 306(b).

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503, 504, and 505.


FROILAN C. TENORIO

CC: Members, MPLC Board
Secretary of Lands and Natural Resources
Director of Land Registration
Director of Public Lands



DIRECTIVE

DATE: 24 AUG 1994
NO. 100

TO : Secretary of Community and Cultural Affairs

FROM : Governor

SUBJECT : Withdrawal of **Directive** No. 46 - Re-issuance of Directive on Executive Order 94-3, Section 308(a), Division of **Sports** and Recreation Established

This is to inform you that, in accordance with Executive Order 94-3, **Re-organization** Plan No. 2 of 1994, **Section 308(a)**, effective immediately, there is ~~established~~ within the **Department** of **Community** and **Cultural Affairs** a Division of **Sports and Recreation**, ~~headed by~~ a **Director** of **Sports and Recreation**.

The Division shall develop and administer programs relating to ~~team~~ and individual sports, recreational activities, and physical fitness for **youth** and adult... including **senior** citizens and persons with mental or physical **disabilities**.



FROILAN C. TENORIO

