



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

08 JUN 2005

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 76 (EC), "AN ACT TO ADD SUBSECTIONS (g) AND (h) TO P.L. 25-55:3 AND TO AMEND SECTION 11, SECTION 2(b) AND SECTION 3(a) OF P.L. 25-55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO ENFORCE AND COLLECT SUCH SURCHARGE." which I signed into law on June 6, 2005, as Public Law 28-44.

Sinseru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE
ACKNOWLEDGEMENT RECEIPT
Rcv'd by: [Signature]
Print Name & Initial
Time: 3:40 Date: 6-14-05

Office of the Speaker
MARK FORBES
Date: 6/9/05
Time: 1:50
Rec'd by: [Signature]
Print Name: Liz Quichocho
28-05-0237



MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

May 25, 2005

The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 71(EC), 81(EC) and 145(LS); and Substitute Bill Nos. 1(LS), 38(EC), 64(EC), 76(EC) and 118(EC) which were passed by *I Mina' Bente Ocho Na Liheslaturan Guåhan* on May 20, 2005.

Sincerely,

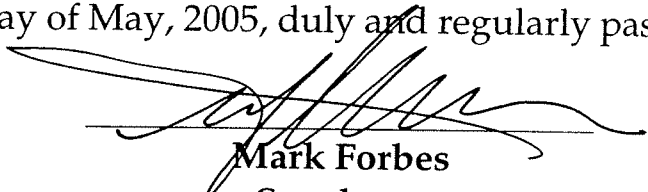
EDWARD J.B. CALVO
Senator and Secretary of the Legislature

Enclosures (8)

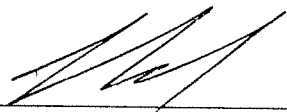
I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

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

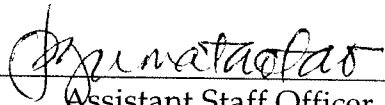
This is to certify that Substitute Bill No. 76 (EC), "AN ACT TO ADD SUBSECTIONS (g) AND (h) TO PUBLIC LAW 25-55:3, AND TO AMEND SECTION 11, SECTION 2(b) AND SECTION 3(a) OF PUBLIC LAW 25-55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE," was on the 20th day of May, 2005, duly and regularly passed.


Mark Forbes
Speaker

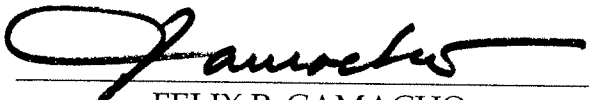
Attested:


Edward J.B. Calvo
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahen Guåhan* this 25 day of May, 2005,
at 4:10 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: June 6, 2005

PL 28-44

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 76 (EC)

As substituted by the Committee on
Natural Resources, Utilities & Micronesian Affairs,
and amended.

Introduced by:

J. M.S. Brown
F. B. Aguon, Jr.
Edward J.B. Calvo
B. J.F. Cruz
Mike Cruz
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
A. B. Palacios
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

AN ACT TO ADD SUBSECTIONS (g) AND (h) TO PUBLIC LAW 25-55:3, AND TO AMEND SECTION 11, SECTION 2(b) AND SECTION 3(a) OF PUBLIC LAW 25-55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that Public Law No. 25-55 established a surcharge to be paid by Local
4 Exchange Telephone Service and Commercial Mobile Radio Service (“CMRS”)
5 to fund the maintenance and upkeep of the Enhanced 911 Emergency System
6 (hereafter referred to as “E911 System”) for the essential health, welfare and
7 safety of our community. Pursuant to Public Law 25-55, the Public Utilities
8 Commission (hereafter referred to as “Commission”), established a One
9 Dollar (\$1.00) surcharge for Local Exchange Telephone Service and CMRS
10 providers, but several CMRS companies have since challenged an order
11 issued by the Commission that determined that prepaid phone cards shall be
12 assessed the One Dollar (\$1.00) surcharge. Hence, the Commission, despite its
13 ratemaking authority, is unable to effectively enforce the collection of the E911
14 System-surcharge.

15 *I Liheslaturan Guåhan* further finds it necessary for the funds to be
16 collected for the continued operations of the E911 System, which directly
17 impacts the well-being of the community.

18 **Section 2. A new Subsection (g) is hereby added to Section 3 of**
19 **Public Law 25-55 to read:**

20 “(g) The Commission may establish a special surcharge protocol
21 for CMRS accounts which are created under a prepaid calling card
22 business arrangement. The Commission shall ensure that said protocol,
23 which may for just cause be tailored to specific collection agents, will be
24 equitable and fair to all collection agents who provide the CMRS service
25 and will not provide any party with a competitive advantage.”

1 Section 3. A new Subsection (h) is hereby *added* to Section 3 of
2 Public Law 25-55 to read:

3 “(h) **Monitoring and Reporting.** The Commission shall monitor
4 the collection of the surcharge. The Commission shall prepare written
5 reports detailing the receipts, collections and amounts of the CMRS
6 accounts, and the Enhanced 911 Emergency System surcharges. The
7 Commission shall then provide *I Maga’lahen Guåhan*, the Speaker of *I*
8 *Liheslaturan Guåhan*, and the Public Auditor of Guam with the reports
9 within sixty (60) days of the end of each Fiscal Year.”

10 **Section 4. Section 11 of Public Law 25-55 is hereby *amended* to read:**

11 “**Section 11. Violations of this Act.** Any person or entity which
12 the Commission determines has violated any provision of this Act, or
13 any Commission order, shall be given proper notice and allowed a
14 reasonable opportunity to cure the violation. Thereafter, in the event of
15 failure to cure, the Commission may exercise its enforcement powers
16 under 12 GCA Section 12108 against the violator and may use its own
17 attorney to do so.”

18 **Section 5. Section 2(b) of Public Law 25-55 is hereby *amended* to read:**

19 “(b) The Commission may establish different rates for residential,
20 government and business subscribers and for good cause shown for
21 different classifications within these subscriber categories.”

22 **Section 6. Section 3(a) of Public Law 25-55 is hereby *amended* to read:**

23 “(a) Each Local Exchange Carrier (‘LEC’) and Commercial Mobile
24 Radio Service (‘CMRS’) provider shall collect the surcharge as

1 established by the Commission. LEC providers shall identify such
2 surcharge as a separate line item on their invoices.”

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN

2005 (FIRST) Regular Session

Date: 5/20/05

VOTING SHEET

Friday

S Bill No. 46 (ec)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSEN
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eddie J.B.	✓				
CRUZ, Benjamin J.F.	✓				
CRUZ, Mike (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.					GA ✓
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.	✓				
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				
TOTAL	<u>14</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

P.L. 28-44



Office of Vice-Speaker
Joanne M. Salas Brown

MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
28th GUAM LEGISLATURE

April 21, 2005

The Honorable Mark Forbes
Speaker
I Mina' Bente Ocho na Liheslaturan Guahan
28th Guam Legislature
155 Hesler Street
Hagatna, Guam 96910

Dear Speaker Forbes:

The Committee on Natural Resources, Utilities & Micronesian Affairs to which was referred Bill No. 76 (EC) "AN ACT TO ADD SUBSECTIONS (g) AND (h) TO P.L. 25-55:3, AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE," has had the same under considered, and now wishes to report back the same with the recommendation TO DO PASS *as substituted* by the Committee on Natural Resources, Utilities & Micronesian Affairs.

Transmitted herewith for your consideration and action is our Committee Report on the above subject matter.

The Committee votes are as follows:

 8 To Do Pass
 0 Not To Pass
 0 Report Out
 0 Abstain
 0 Inactive File

A copy of the Committee report and other pertinent documents are attached for your immediate reference information.

Should you have any questions, please do not hesitate to contact me at 472-3450/1.

Sincerely,



Joanne M.S. Brown
Chairwoman, Committee on Natural
Resources, Utilities & Natural Resources

(Attachments)




Office of Vice-Speaker
Joanne M. Salas Brown

MINA' BENTE OCHO NA LIHESLATURAN GUÁHAN
28th GUAM LEGISLATURE

April 14, 2005

Memorandum

To: Committee Members

From: Vice Speaker Joanne M.S. Brown 
Chairwoman, Committee on Natural Resources, Utilities & Micronesian Affairs

Subject: **Bill No. 76 (EC)**, as substituted by the Committee on Natural Resources, Utilities & Micronesian Affairs, "AN ACT TO ADD SUBSECTIONS (g) AND (h) TO P.L. 25-55:3, AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE."

Transmitted herewith for your consideration and action is our Committee Report on the above subject matter.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Agenda
4. Bill No. 76 (EC) as substituted by committee
5. Bill No. 76 (EC) as introduced
6. Public Hearing Sign sign-in sheet
7. Notice of Public Hearing
8. Written Testimony

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

Should you have any questions on the report and the accompanying documents, please do not hesitate to contact me at 472-3450/1.

Thank you.



**MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
COMMITTEE ON NATURAL RESOURCES,
UTILITIES & MICRONESIAN AFFAIRS
VICE SPEAKER JOANNE M.S. BROWN, CHAIRWOMAN**

Bill No. 76 (EC) as substituted by the Committee on Natural Resources, Utilities & Micronesian Affairs

"AN ACT TO ADD SUBSECTIONS (g) AND (h) TO P.L. 25-55:3, AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE."

VOTING SHEET

MEMBERS	TO PASS	NOT TO PASS	REPORT OUT	ABSTAIN	INACTIVE FILE	INITIALS
Vice Speaker Joanne M. S. Brown, Chairwoman	✓					
Senator Michael Cruz, Vice Chairman	✓					
Senator Frank Aguon, Member	OFF ISLAND					
Senator Edward J.B. Calvo, Member						
Senator Lawrence Kasperbauer, Member	X					 2/19/05
Senator Lou Leon Guerrero, Member	OFF ISLAND					
Senator Jesse Lujan, Member	✓					 4/20/05
Senator Rory Respicio, Member						
Senator Ray Tenorio, Member	✓					
Senator Antonio Unpingco, Member	OFF ISLAND					
Senator Judith Won Pat, Member	OFF ISLAND					
Speaker Mark Forbes, Ex-Officio Member	✓					

**I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
28th GUAM LEGISLATURE**

**COMMITTEE ON NATURAL RESOURCES, UTILITIES &
MICRONESIAN AFFAIRS**

**VICE SPEAKER JOANNE M.S. BROWN
CHAIRWOMAN**

**COMMITTEE REPORT
BILL NO. 76 (EC)**

COMMITTEE ON NATURAL RESOURCES, UTILITIES & MICRONESIAN AFFAIRS

Bill No. 76 (EC) "AN ACT TO ADD SUBSECTIONS (g) AND (h) TO P.L. 25-55:3, AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE."

I. OVERVIEW

The Committee on Natural Resources, Utilities & Micronesian Affairs held a public hearing on Tuesday March 15, 2005 in the Public Hearing Room of the Guam Legislature in Hagåtña, Guam. Committee Chairwoman, Vice Speaker Joanne M.S. Brown commenced the hearing at 9:16 a.m with welcoming remarks.

Senators Present:

Vice Speaker Joanne M. Brown, Chairwoman
Senator Robert Klitzkie

II. TESTIMONY

Written testimony provided by the following

- Doris Flores Brooks, Public Auditor of Guam, Office of the Public Auditor
- Terrence Brooks, Chairman, Public Utilities Commission
- Anthony P. Rabon, Acting Fire Chief, Guam Fire Department

Oral Testimony provided by the following:

The following is a summary of oral testimony provided during the hearing:

- **Angel Llagas**, E911 Officer-in-Charge-Guam Fire Department

Mr. Llagas stated that the Guam Fire Department (GFD) is in favor of the bill, and acting Fire Chief Tony Rabon would submit written testimony to reflect this.

➤ **Carlos Camacho**, Manager of Corporate Public Relations for IT&E

IT&E position is still consistent: they are “merely asking for proper legislation” to address the special protocol for the prepaid wireless market because PL 25-55 does not properly address the issue, but there were the right protocol in place, they would gladly comply

➤ **Terrence Brooks**, Chairman of the Public Utilities Commission (PUC)

Mr. Brooks stated that the E911 system needs more supplemental appropriations from the legislature for its program survival. He added that the PUC has, on several occasions, requested assistance from Legislature to address regulatory concerns relative to the E911 program. He said that he aired these concerns in a September 28, 2004 letter to Speaker Vicente Pangelinan, legislative utilities committee chairman during the 27th Guam Legislature.

Under current law, PUC has a limited role in the regulation of the E911 program. PUC does not regulate or oversee GFD’s budgeting or expenditure of E911 funds nor the Department of Administration’s (DOA’s) custody, accounting and disbursement of these funds. Pursuant to P.L. 25-55, PUC’s duties are to monitor collection activities of the telephone companies who are responsible for collecting the 911-surcharge and collection remittance to DOA.

Under P.L. 25-55, the Attorney General is given exclusive authority to prosecute collection agents who fail to do their duties pursuant to the law. He further stated that on January 21, 2003, the PUC referred IT&E to the Attorney General for prosecution, but no action was taken. A June 24, 2002 PUC order ruled that the 911-surcharge was applicable to prepaid cellular accounts, so the PUC disagrees with IT&E’s interpretation “that something has to be done” before they start collecting surcharge fees for pre-paid cards.

Guam Telephone Authority (GTA) and Guam Cellular (GuamCell) initially complied with order, but IT&E continued to question PUC’s authority to apply the surcharge as well as the technical feasibility of collecting the surcharge. Other companies, however, have found ways to make the technical changes, Mr. Brooks stated.

IT&E’s unwillingness to collect the surcharge has put it in a competitive advantage over GTA & GuamCell. In response GuamCell in 2004 announce that it would collect but hold in escrow any surcharge collected on prepaid accounts. He also stated that before GTA privatized, they collected the surcharge, but now the new company may take a different business approach to this problem.

The situation has disrupted the E911 revenue stream upon which the program is dependent. Since Mr. Brooks’ September 2004 letter to Speaker Pangelinan, GuamCell has announced that it will no longer collect the surcharge. PUC estimates that approximately \$330,000 is lost annually because of IT&E and GuamCell’s refusal to comply with PUC’s surcharge. He noted that he was concerned that the new GTA might follow suit with its competitors.

Bill No. 76 would empower the PUC to establish a fair protocol to address IT&E’s technical concerns and allow the company to collect a surcharge on pre-paid accounts. The measure

would further allow PUC to enforce its orders. In conclusion, Mr. Brooks stated that the PUC would like to move forward with issues when the bill's passed, and would like to discuss this issue further in great detail with the committee chairwoman and her staff.

➤ **Doris Flores Brooks**, Public Auditor of Guam, Office of the Public Auditor Testified in support of bill, but recommended that PUC report annually to the Governor, Legislature and the Office of the Public Auditor the receipts, collections and amounts of the CMRS accounts and the E911 surcharges. The annual report should be submitted within 120 days after the end of each fiscal year. Provided background information relative to the OPA audit of E911, issued in December 2003, which found that neither the GFD nor the DOA monitored the amount of E911 remittances received. OPA estimated a discrepancy of over \$950,000. As a result of the lack of monitoring the E911 fees, the General Fund has often supplemented the E911 costs.

In December 2002 letter to the OPA, PUC Chairman Brooks stated that PUC has the authority pursuant to P.L. 25-55 to audit an agent and would not hesitate to do so, if needed. Public Auditor Brooks stated that she feels the PUC is in the best position to monitor E911 and CMRS account collections and provide an annual report. Monitoring is especially important because of GTA privatization.

Further pointed out what she sees as an administrative problem between GFD and DOA relative to incorrect costs not being properly charged to the E911 accounts. To illustrate this, Public Auditor Brooks noted that there appears to be a surplus of a couple of million dollars, but this is inaccurate because the labor costs of E911 have not been charged, but absorbed as part of GFD-budget costs and charged to the General Fund.

➤ **Kevin Seeker, Guam Cell**

Wanted to know if his company would be rebated for all the years that Guam Cell and HafaTel has paid E911

➤ **Richard Yu, IConnect**

Stated for the record that they have always collected and always paid E911 surcharge.

III. CONCERNS/QUESTIONS FROM COMMITTEE AND INDIVIDUALS WHO PRESENTED TESTIMONY:

Chairwoman Brown stated that under PL 25-55 the GFD was to provide the Guam Legislature annual reports to the Guam Legislature on the expenditures and operations of E911, but she has never seen one since the legislation passed, she asked if this is something that the GFD is working on comply with.

Mr. Llagas said GFD has been working on diligently in light of the OPA's report and findings for 2003, and comprehensive report have been prepared to address the OPA's findings. He noted that he has seen it, and the Fire Chief has the report.

Chairwoman Brown asked how many personnel are with E911.

Mr. Llagas responded that there are 11 civilians and six firefighters.

Chairwoman Brown asked for an estimate of the annual operations budget for E911.

Mr. Llagas stated that based on the previous year's budget requirements, GFD requested between \$1.5 million to \$1.9 million, but E911-surcharge revenues have been declining each year. He noted that GuamCell has followed suit with IT&E relative to not submitting the \$1 surcharge to the fund.

Chairwoman Brown stated that she asked DOA for the last three Fiscal Years accounting of revenues deposited into the E911 account, stating that in FY2002 there was approximately \$310,000; and in FY2003 that amount increased to \$1.9 million, but declined to \$873,000 in FY2004.

Chairwoman Brown asked PUC Chairman T. Brooks if it is the official position of the PUC to move forward without addressing any back-debts owed to the GFD with respect to the E911 surcharge.

Mr. T. Brooks stated that it would be a fairly expensive undertaking if they were to audit all the accounts that should have been paid in the past. It is, however, something they could do, but would like to move forward.

Chairwoman Brown stated that she is confident this legislation will pass because of the importance of funding the E911 system. She further asked how long it would take to address the pre-paid issue, and what specifically made it difficult for private companies to pay the surcharge.

Mr. T. Brooks replied that he did not foresee that it would take too long. He said that he could not speak on behalf of companies, but stated that other companies – aside from IT&E – complied and were able to address the necessary technical modifications required to assess the surcharge.

Chairwoman Brown said she was concerned that this issue has dragged on for nearly three

years. She added that she doubted Guam residents were aware that the money was not going into the emergency response system. She noted that while enjoys the convenience of a personal cell phone, it is pointless if she is unable to access 911 services in times of an emergency, as many other island residents would feel.

Chairwoman Brown sought clarification from Public Auditor D. Brooks relative to her recommendation in OPA report that GFD monitor E911 account. She asked if the Public Auditor's position has changed and if PUC should instead take on this responsibility.

Public Auditor Brooks stated that since PUC asked for the legislation, she has since changed her position to reflect this.

Chairwoman Brown asked what PUC's position was and whether they would be able to do the annual reports, stressing a need to ensure that accurate charges are being collected from the right amount of users.

Mr. T. Brooks stated that PUC is willing to do the report on an annual basis. He added that he feels GFD should continue to report their expenses because they are in the best position to do so.

Chairwoman Brown stated that the committee may look into amending legislation to reflect recommendation that PUC monitor collections, and report back to the Governor, Legislature and Office of the Public Auditor. She added that she was concerned about a private cellular company's advertisements stating the 911 surcharge would be eliminated when customers sign up for services.

Relative to GuamCell's Mr. Seeker's question about whether GuamCell and HafaTel would receive a rebate for having paid the E911 surcharge, Chairwoman Brown stated that issue will be left up to PUC- whether legal action will be taken against companies who have not paid E911.

IV. CONCLUSION:

Vice Speaker Brown stated that the committee would work expeditiously on the legislation to reflect recommendations by the Public Auditor, and this legislation is important because of the significance of the E911 system to the safety and welfare of the community.

V. FINDINGS AND RECOMMENDATION:

The Committee recommends to do pass Bill 76(EC) as substituted by the Committee on Natural Resources, Utilities & Micronesian Affairs.

**I MINA BENTE OCHO NA LIHESLATURAN GUAHAN
COMMITTEE ON NATURAL RESOURCES, UTILITIES
& MICRONESIAN AFFAIRS
SENATOR JOANNE M.S. BROWN
CHAIRPERSON**

**Public Hearing
Tuesday, March 15, 2005
9:00 a.m.
Public Hearing Room**

AGENDA

1. Commencement of Public Hearing

- A) BILL 77 (EC): An Act To Amend Section 51118(F) Of Title 10 Of Guam Code Annotated To Authorize The Public Utilities Commission To Fund The Costs Of Its Financial Analysis Functions.**

- B) Bill 76 (EC): An Act To Add Section (G) To P.L. 25-55:3 And To Amend Section 11 Of P.L. 25:55 To Provide The Public Utilities Commission With Authority To Impose A Surcharge On CMRS Accounts And To Permit The Public Utilities Commission To Enforce And Collect Such Surcharge Itself.**

2. Public Comments

3. Adjournment

~~RIF~~ 5/19/05
5/20/05
304
5/20/05

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 76 (EC)
As substituted by the Committee on
Natural Resources, Utilities & Micronesian Affairs

Introduced by: J.M.S. Brown

AN ACT TO ADD ~~SECTION SUBSECTIONS (g) AND (h)~~ TO P.L. 25-55:3, AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO ~~IMPOSE~~ ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO PERMIT AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE ITSELF.

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

2 **Section 1.** ~~A new subsection (g) is added to Section 3 of P.L. 25:55 to~~
3 ~~read as follows:~~

4 ~~(g) The Commission may establish a special surcharge protocol for CMRS~~
5 ~~accounts which are created under a prepaid calling card business~~
6 ~~arrangement. The Commission shall ensure that said protocol, which~~
7 ~~may for just cause be tailored to specific collection agents, will be~~
8 ~~equitable and fair to all collection agents who provide the CMRS~~
9 ~~service and will not provide any party with a competitive advantage.~~

10 **Legislative Findings and Intent.** *I Liheslaturan Guahan finds*
11 *that Public Law No. 25-55 established a surcharge to be paid by Local*
12 *Exchange Telephone Service and Commercial Mobile Radio Service*
13 *(“CMRS”) to fund the maintenance and upkeep of the Enhanced 911*

1 Emergency System (hereafter referred to as "E911 System") for the
2 essential health, welfare and safety of our community. Pursuant to Public
3 Law 25-55, the Public Utilities Commission (hereafter referred to as
4 "Commission"), established a one dollar (\$1.00) surcharge for Local
5 Exchange Telephone Service and CMRS providers, but several CMRS
6 companies have since challenged an order issued by the commission that
7 determined that prepaid phone card shall be assessed the one dollar
8 (\$1.00) surcharge. Hence, the Commission despite its ratemaking
9 authority is unable to effectively enforce the collection of the E911 System-
10 surcharge.

11 I Liheslaturan Guahan further finds it necessary for the funds to be collected
12 for the continued operations of the E911 System, which directly impacts
13 the well being of the community.

14 **Section 2.-** ~~Section 11 of P.L. 25-55 is hereby amended to read:~~

15 ~~**11. Violations of this Act.** Any person or entity which the Commission~~
16 ~~determines has violated any provision of this Act or any Commission~~
17 ~~order shall be given proper notice and be allowed a reasonable~~
18 ~~opportunity to cure the violation. Thereafter, in the event of failure to~~
19 ~~cure, the Commission may refer the violation to the Attorney General for~~
20 ~~prosecution. Any person or entity that, having the responsibility of~~
21 ~~complying with this act or a Commission order, fails to cure such violation~~
22 ~~shall be fined a civil penalty not to exceed Ten Thousand Dollars~~
23 ~~(\$10,000.00) per infraction. Any such penalty shall be deposited into the~~
24 ~~Fund may exercise its enforcement powers under 12 G.C.A. Section 12108~~
25 ~~against the violator and may use its own attorney to do so.~~

26 A new subsection (g) is added to Section 3 of P.L.

27 25:55 to read as follows:

1 (g) The Commission may establish a special surcharge protocol for CMRS
2 accounts which are created under a prepaid calling card business
3 arrangement. The Commission shall ensure that said protocol, which may
4 for just cause be tailored to specific collection agents, will be equitable and
5 fair to all collection agents who provide the CMRS service and will not
6 provide any party with a competitive advantage.

7 Section 3. A new subsection (h) is added to Section 3 of P.L. 25:55 to
8 read:

9 (h) **Monitoring and Reporting.** The Commission shall monitor the
10 collection of the surcharge. The Commission shall prepare written reports
11 detailing the receipts, collections and amounts of the CMRS accounts, and
12 the Enhanced 911 Emergency System surcharges. The Commission shall
13 then provide *I Maga'lahaen Guahan*, the Speaker of *I Liheslaturan Guahan*,
14 and the Public Auditor of Guam the reports within 60 days of the end of
15 each Fiscal Year.

16 Section 4. Section 11 of P.L. 25-55 is hereby amended to read:

17 11. **Violations of this Act.** Any person or entity which the Commission
18 determines has violated any provision of this Act or any Commission
19 order shall be given proper notice and be allowed a reasonable
20 opportunity to cure the violation. Thereafter, in the event of failure to
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24 ~~violation shall be fined a civil penalty not to exceed Ten Thousand~~
25 ~~Dollars (\$10,000.00) per infraction. Any such penalty shall be~~
26 ~~deposited into the Fund~~ may exercise its enforcement powers under 12



1 G.C.A. Section 12108 against the violator and may use its own attorney
2 to do so.

3 **Section 5.** Section 2(b) of P.L. 25-55 is hereby amended to read:

4 (b) The Commission may establish different rates for residential,
5 government and business subscribers and for good cause shown for
6 different classifications within these subscriber categories.

7 **Section 6.** Section 3(a) of P.L. 25-55 is hereby amended to read:

8 (a) Each Local Exchange Carrier ("LEC") and Commercial Mobile
9 Radio Service ("CMRS") provider shall collect the surcharge as established
10 by the Commission ~~and identify such as a separate line item on its invoice.~~
11 LEC providers shall identify such as a separate line item on their invoices.

12

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Introduced

FEB 23 2005

Bill No. 76 (EC or ~~ES~~)

Introduced by:

J.M.S. Brown

AN ACT TO ADD SECTION (g) TO P.L. 25-55:3 AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO IMPOSE A SURCHARGE ON CMRS ACCOUNTS AND TO PERMIT THE PUBLIC UTILITIES COMMISSION TO ENFORCE AND COLLECT SUCH SURCHARGE ITSELF

TO BE ENACTED BY THE PEOPLE OF GUAM:

1 Section One. A new subsection (g) is added to Section 3 of P.L. 25:55 to
2 read as follows:

3 (g) The Commission may establish a special surcharge protocol for CMRS
4 accounts which are created under a prepaid calling card business
5 arrangement. The Commission shall ensure that said protocol, which
6 may for just cause be tailored to specific collection agents, will be
7 equitable and fair to all collection agents who provide the CMRS
8 service and will not provide any party with a competitive advantage.

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1 be given proper notice and be allowed a reasonable opportunity to cure the
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6 ~~Dollars (\$10,000.00) per infraction. Any such penalty shall be deposited into the~~
7 ~~Fund~~ may exercise its enforcement powers under 12 G.C.A. Section 12108
8 against the violator and may use its own attorney to do so.

I Mina Bente Ocho Na Liheslaturan Guahån

COMMITTEE ON NATURAL RESOURCES, UTILITIES & MICRONESIAN AFFAIRS

Tuesday, March 15, 2005; 9:00 a.m.
Legislative Public Hearing Room

PUBLIC HEARING

Bill No. 76 (EC): "An Act To Add Section (G) To P.L. 25-55:3 And To Amend Section 11 Of P.L. 25:55 To Provide The Public Utilities Commission With Authority To Impose A Surcharge On CMRS Accounts And To Permit The Public Utilities Commission To Enforce And Collect Such Surcharge Itself."

SIGN IN SHEET

<i>Name</i>	<i>Representing</i>	<i>Contact number</i>
Angel B. Llagas, Jr	Guam Fire Department E911 (written Testimony) IN FAX - FAXED	475-9084/83
CARLOS P. CARRACHO	IT&E	646-8886
Deborah Rivera	AG	475-3321
Kevin Spok	Council	688-4477
TERRI BROOKS	PUL	

I Mina Bente Ocho Na Liheslaturan Guahån

COMMITTEE ON NATURAL RESOURCES, UTILITIES & MICRONESIAN AFFAIRS

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SIGN IN SHEET

<i>Name</i>	<i>Representing</i>	<i>Contact number</i>
DF BNECKS	GOAM OPA	
RICHARD WU	ICONNECT	
Kevin Secker	Guamcell	

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Tel: 646-0234 • Fax: 646-0233 • E-mail: darryl.oshiro@valuepacific.net

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MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
**Committee on Natural Resources,
Utilities & Micronesia Affairs**
*Vice Speaker Joanne M.S. Brown
Chairwoman*

The Committee on Natural Resources, Utilities & Micronesia Affairs will hold a public hearing on **Tuesday, March 15, 2005, 9:00 a.m.,** in the **Legislative Building Public Hearing Room in Hagatna,** on the following:

Bill 76 (EC): An Act To Add Section (g) To P.L. 25-55:3 And To Amend Section 11 Of P.L. 25:55 To Provide The Public Utilities Commission With Authority To Impose A Surcharge On CMRS Accounts And To Permit The Public Utilities Commission To Enforce And Collect Such Surcharge Itself.

Bill 77 (EC): An Act To Amend Section 51118(f) Of Title 10 Of Guam Code Annotated To Authorize The Public Utilities Commission To Fund The Costs Of Its Financial Analysis Functions.

Individuals requiring special accommodations should contact
Carl I. Quinata, A.D.A. Coordinator at 472-3450.
IMPD FOR WITH GOVERNMENT FUNDS

Audit Supervisor

The Office of the National Public Auditor of an island nation in the Western Pacific is seeking an experienced auditor for immediate employment in a supervisory capacity. Successful candidates will have a degree in Accounting from an accredited university and extensive, successful experience in auditing. Experience in supervising governmental audits is preferred.

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- Able to work flexible hours when needed

DFS is an equal employment opportunity employer. Federal Immigration Law requires verification of eligibility to work in the U.S. for all new employees. **comply with this requirement on a non-discriminatory basis.** Drug screening will be required for all selected candidates, based on the DFS Drug Free Environment Policy. Police and Court clearance required.

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Terrence M. Brooks, Chairman
Joseph M. McDonald
Edward C. Crisostomo
Filomena M. Cantoria
Rowena E. Perez
Richie K.T. Lim

Suite 207, GCIC Building
Post Office Box 862
Hagatna, Guam 96932

Telephone: (671) 472-1907
Fax: (671) 472-1917
Email: guampuc@kuentos.guam.net

Harry M. Boertzel, Esq.
Administrative Law Judge

Lourdes R. Palomo
Administrator

Rec. 3/15/05
Joy 9:58am

March 14, 2005

VIA HAND DELIVERY

The Honorable Joann Brown
Vice Speaker, 28th Guam Legislature
Chairman, Committee on Utilities and Land
155 Hesler Street
Hagåtña, Guam 96910

RE: Bill 76 [E911 Surcharge on Prepaid Cellular Accounts]

Dear Vice Speaker Brown:

The Guam Public Utilities Commission [PUC] appreciates your leadership in introducing Bill 76 to resolve serious administrative problems concerning the collection of the E911 surcharge on prepaid cellular accounts. PUC endorses the enactment of Bill 76.

PUC has on several occasions requested legislative action to address regulatory concerns about the E911 program. These concerns were most recently set forth in my September 28, 2004 letter to Speaker Pangelinan:

Under current law, PUC has a limited role in the regulation of the E911 program. PUC does not regulate or oversee the Guam Fire Department's budgeting or expenditure of E911 funds. PUC does not regulate or oversee the Department of Administration's [DOA] custody, accounting and disbursement of E911 funds it receives. PUC is responsible under Public Law 25-55 with monitoring the collection activities of the telephone companies, who are responsible for collecting the one dollar per month 911 surcharge from their customers and for remitting these collections to DOA. Under P.L. 25-55, the Attorney General is given the exclusive authority to prosecute collection agents who fail to discharge their duties under P.L. 25-55.

By order dated June 24, 2002, PUC ruled that the 911 surcharge is applicable to prepaid cellular accounts. While Guam Telephone Authority [GTA] and Guam Cellular complied with this order, IT&E questioned PUC's authority to apply the surcharge to prepaid accounts and also raised concerns about the technical feasibility of collecting the

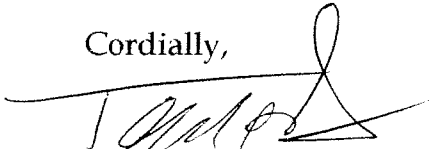
surcharge on these accounts. Accordingly, it refused to collect the surcharge on prepaid accounts. On January 21, 2003, PUC referred IT&E to the Attorney General for prosecution under P.L. 25-55:11. No prosecutorial action has been taken in response to this referral. IT&E's failure to collect the surcharge on its prepaid cellular accounts has put it in a position of competitive advantage over GTA and Guam Cellular... In response to this situation, Guam Cellular announced on April 7, 2004 that it would collect but hold in escrow any surcharge collected on prepaid accounts. Although GTA currently collects the surcharge, it is likely that any company which purchases GTA will take a different business approach to this problem. This situation has significantly damaged the 911 surcharge revenue stream, upon which E911 operations are dependent.

Since my September 24, 2004 letter to Speaker Pangelinan, GuamCell has announced that it will no longer collect the 911 surcharge on prepaid cellular accounts. PUC estimates that IT&E and GuamCell's refusal to comply with PUC's surcharge order has created an annual loss of surcharge revenues in excess of \$330,000. This loss would dramatically increase should the newly privatized GTA decide to follow the lead of its competitors.

Bill 76 would empower PUC to tailor a fair protocol, which would address ITE's technical concerns and thereby enable it to collect the surcharge on its prepaid accounts. The bill would also empower PUC to enforce its own orders. Given the historic lack of enforcement, PUC submits that its new enforcement authority should be prospectively applied to provide cellular companies, which provide prepaid service, with a fresh start under the new law.

PUC would welcome the opportunity to discuss these matters in greater detail with you and your staff.

Cordially,



Terrence Brooks
Chairman



OFFICE OF THE PUBLIC AUDITOR

March 15, 2005

Honorable Joanne M. Salas Brown
Vice Speaker & Chairwoman Committee on Natural Resources,
Utilities & Micronesia Affairs
28th Guam Legislature
155 Hesler St.
Hagatna, Guam 96910

Re: Bill 76 and Bill 77

Dear Vice Speaker Brown and Committee Members:

Bill 76

The Public Utilities Commission (PUC) through Bill 76 is seeking to establish a surcharge on CMRS (Commercial Mobil Radio Service) Accounts that the PUC will collect and enforce itself.

I am in support of Bill 76 with the modification that the PUC report annually to the Legislature, the Governor and the Office of the Public Auditor the receipts, collections and amounts of CMRS accounts and E911 surcharges. The annual report should be submitted within 120 days after the fiscal year end.

As background information, our audit of E911, which was issued in December 2003, found that neither the Guam Fire Department nor the Department of Administration monitored the amount of E911 remittances received. We estimated a discrepancy of over \$950,000. As a result of this lack of monitoring of E911 fees, the General Fund was often left subsidizing the E911 costs.

In his December 2, 2003, letter to the OPA, PUC Chairman Terrence Brooks stated: "PUC has the authority under P.L. 25-55:3(C) to audit an agent and would not hesitate to do so if it determined that it was reasonable and necessary under the circumstances."

The PUC is in the best position to monitor the collections of E911 and CMRS accounts and best able to provide an annual accounting of these collections. This monitoring is especially important now that the new GTA is a private entity.

Bill 77

In this Bill, the PUC requests authorization to be paid for financial analysis costs it incurs in its oversight of the Solid Waste Operations Fund. While reasonable financial

analysis costs should be paid, the question to ask is who should have oversight in determining what is reasonable?

At present, the PUC utilizes Georgetown Consulting Group (GCG) for work of this nature and bills the affected utilities for the costs. Another body, such as the Legislature, does not review the budget of the PUC. Most recently I have learned that the financial operations of the PUC, have not ever been included in the General Fund's annual financial audit. This is a situation I have asked the contracted auditors to rectify.

Over the last three fiscal years GCG was paid \$514,037 in FY 04, \$418,145 in FY 03 & \$989,010 in FY 02 for its review of matters pertaining to GPA, GTA, E911 & GWA. I invite the PUC to consider involving the OPA in this sort of work on a reimbursable basis or to hire a staff person so that local expertise in such analyses can be developed.

Thank you, for inviting me to provide testimony on Bills 76 and 77.

Senseramente,



Doris Flores Brooks, CPA, CGFM
Public Auditor

RECEIVED
DATE: 03/15/05
John 9:08am

Testimony

By

Anthony Perez Rabon

Acting Fire Chief

Guam Fire Department

On

Bill 79

Committee on Natural Resources, Micronesia, and Utilities

Twenty-Seventh Guam Legislature

March 15, 2005

9:00 a.m.

Legislative Hearing Room
Hagåtña, Guam

Madam Chair, Distinguished members of the Committee, ladies and gentlemen:

The Guam Fire Department supports the intent of Bill 76; we would like however, to work with the Committee Chair to include other amendments germane to this measure to comprehensively address the repeal of Public Law 25-55 and to adequately address the current and future needs of our island's only public Enhanced E-9-1-1 system.

The Public Utilities Commission has performed excellent work in its regulatory oversight of the E-9-1-1 as administered by the Guam Fire Department, and, since the enactment of Public Law 25-55 in June, 1999, it was apparent that provisions of the law will have to be amended or repealed as the dynamics of E-9-1-1 expanded and Federal Communications Commission (FCC) Phase I and Phase II network and public safety answering point (PSAP) upgrade and improvements are implemented.

The E-9-1-1 Special Fund must be reinforced with provisions to prevent diversion of funds intended solely for the operation and maintenance of the system. The system can never be self-supporting if provisions to carry-over non-reversionary funds for operations and maintenance are not in place or not enforced.

I have attached for your perusal a brief synopsis of issues surrounding the system currently. I look forward to addressing these issues with you or your designated staff for an omnibus legislation encompassing current and future concerns.

In closing please let me share a summation by U.S. Senator Hillary Rodham-Clinton on this matter: "When an emergency occurs, Americans put all of their trust and faith in three numbers: 9-1-1. This is one of the primary reasons Americans cite for purchasing a cell phone, but too many of our response centers lack the equipment, technology, and resources to respond to an emergency call made from a cell phone."

Thank you for the opportunity to provide testimony on this bill

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 76 (EC)**

Bill Title (Preamble): AN ACT TO AMEND SECTION (g) TO P.L. 25-55:3 AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO IMPOSE A SURCHARGE ON CMRS ACCOUNTS AND TO PERMIT THE PUBLIC UTILITIES COMMISSION TO ENFORCE AND COLLECT SUCH SURCHARGE ITSELF.

Department/Agency Appropriation Information	
Dept./Agency Affected: Public Utilities Commission	Dept./Agency Head: Terrance Brooks, Chairman
Department's General Fund (GF) appropriation(s) to date:	\$0
Department's Other Fund (specify): _____ appropriation(s) to date:	\$0
Total Department/Agency Appropriation(s) to date:	\$0

Fund Source Information of Project Appropriation			
	General Fund:	Other (specify):	Total:
FY 2005 Adopted Revenues	\$447,441,000	\$0	\$447,441,000
FY Appro. to P.L. _____	(\$447,957,067)	\$0	(\$447,957,067)
Sub-total:	(\$516,067)	\$0	(\$516,067)
Less appropriation in Bill	\$0	\$0	\$0
Total:	(\$516,067)	\$0	(\$516,067)

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

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

Analyst: [Signature] Date: 5/17/05 Director: [Signature] Date: MAY 18 2005
[Signature] Carlou P. Bordallo

Footnotes: Bill 76 adds a new section (g) to P.L. 25:55:3 which allows the PUC to establish a special surcharge for prepaid calling cards, should the PUC decide to do so. The potential revenue generated, should the PUC establish this surcharge, is dependent on the number of pre-paid calling cards that the various CMRS providers are able to sell. However, information on the previous sales of pre-paid cards are unavailable at this time. The Bill also makes an administrative amendment to section 11 that allows the PUC to exercise its enforcement powers under 12 G.C.A. Section 12108, against violators of any provision of P.L. 25:55. It also allows the PUC to utilize its own attorneys in lieu of utilizing the Attorney General's Office and removes the monetary penalty of \$10,000 per infraction. As such, the amendment will eliminate any potential revenues which could be deposited into the 911 Emergency Reporting System Fund.

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 76 (EC)

*As substituted by the Committee on
Natural Resources, Utilities & Micronesian Affairs*

Introduced by:

J.M.S. Brown

AN ACT TO ADD SECTION ~~SUBSECTIONS~~ (g) AND (h) TO P.L. 25-55:3, AND TO AMEND SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH AUTHORITY TO IMPOSE ~~A~~ ESTABLISH A SPECIAL SURCHARGE PROTOCOL ON COMMERCIAL MOBILE RADIO SERVICE (CMRS) PRE-PAID ACCOUNTS AND TO PERMIT AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO MONITOR, ENFORCE AND COLLECT SUCH SURCHARGE ITSELF.

1 BE ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. ~~A new subsection (g) is added to Section 3 of P.L. 25:55 to~~
3 ~~read as follows:~~

4 ~~(g) The Commission may establish a special surcharge protocol for CMRS~~
5 ~~accounts which are created under a prepaid calling card business~~
6 ~~arrangement. The Commission shall ensure that said protocol, which~~
7 ~~may for just cause be tailored to specific collection agents, will be~~
8 ~~equitable and fair to all collection agents who provide the CMRS~~
9 ~~service and will not provide any party with a competitive advantage.~~

10 Legislative Findings and Intent. I Liheslaturan Guahan finds
11 that Public Law No. 25-55 established a surcharge to be paid by Local
12 Exchange Telephone Service and Commercial Mobile Radio Service
13 ("CMRS") to fund the maintenance and upkeep of the Enhanced 911

1 Emergency System (hereafter referred to as "E911 System") for the
2 essential health, welfare and safety of our community. Pursuant to Public
3 Law 25-55, the Public Utilities Commission (hereafter referred to as
4 "Commission"), established a one dollar (\$1.00) surcharge for Local
5 Exchange Telephone Service and CMRS providers, but several CMRS
6 companies have since challenged an order issued by the commission that
7 determined that prepaid phone card shall be assessed the one dollar
8 (\$1.00) surcharge. Hence, the Commission despite its ratemaking
9 authority is unable to effectively enforce the collection of the E911 System-
10 surcharge.

11 *I Liheslaturan Guahan* further finds it necessary for the funds to be collected
12 for the continued operations of the E911 System, which directly impacts
13 the well being of the community.

14 **Section 2.-** ~~Section 11 of P.L. 25-55 is hereby amended to read:~~

15 ~~**11. Violations of this Act.** Any person or entity which the Commission~~
16 ~~determines has violated any provision of this Act or any Commission~~
17 ~~order shall be given proper notice and be allowed a reasonable~~
18 ~~opportunity to cure the violation. Thereafter, in the event of failure to~~
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5 fair to all collection agents who provide the CMRS service and will not
6 provide any party with a competitive advantage.

7 Section 3. A new subsection (h) is added to Section 3 of P.L. 25:55 to
8 read:

9 (h) **Monitoring and Reporting.** The Commission shall monitor the
10 collection of the surcharge. The Commission shall prepare written reports
11 detailing the receipts, collections and amounts of the CMRS accounts, and
12 the Enhanced 911 Emergency System surcharges. The Commission shall
13 then provide *I Maga'lahaen Guahan*, the Speaker of *I Liheslaturan Guahan*,
14 and the Public Auditor of Guam the reports within 60 days of the end of
15 each Fiscal Year.

16 Section 4. Section 11 of P.L. 25-55 is hereby amended to read:

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19 order shall be given proper notice and be allowed a reasonable
20 opportunity to cure the violation. Thereafter, in the event of failure to
21 cure, the Commission may refer the violation to the Attorney General
22 for prosecution. Any person or entity that, having the responsibility of
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24 violation shall be fined a civil penalty not to exceed Ten Thousand
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26 deposited into the Fund may exercise its enforcement powers under 12

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G.C.A. Section 12108 against the violator and may use its own attorney
to do so.

Section 5. Section 2(b) of P.L. 25-55 is hereby amended to read:

(b) The Commission may establish different rates for residential,
government and business subscribers and for good cause shown for
different classifications within these subscriber categories.


Section 6. Section 3(a) of P.L. 25-55 is hereby amended to read:

(a) Each Local Exchange Carrier ("LEC") and Commercial Mobile
Radio Service ("CMRS") provider shall collect the surcharge as established
by the Commission ~~and identify such as a separate line item on its invoice.~~
LEC providers shall identify such as a separate line item on their invoices.

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 76 (EC) ~~or LS~~

Introduced by:

J.M.S. Brown 

**AN ACT TO ADD SECTION (g) TO P.L. 25-55:3 AND TO AMEND
SECTION 11 OF P.L. 25:55 TO PROVIDE THE PUBLIC
UTILITIES COMMISSION WITH AUTHORITY TO IMPOSE A
SURCHARGE ON CMRS ACCOUNTS AND TO PERMIT THE
PUBLIC UTILITIES COMMISSION TO ENFORCE AND
COLLECT SUCH SURCHARGE ITSELF**

TO BE ENACTED BY THE PEOPLE OF GUAM:

1 Section One. A new subsection (g) is added to Section 3 of P.L. 25:55 to
2 read as follows:

3 (g) The Commission may establish a special surcharge protocol for CMRS
4 accounts which are created under a prepaid calling card business
5 arrangement. The Commission shall ensure that said protocol, which
6 may for just cause be tailored to specific collection agents, will be
7 equitable and fair to all collection agents who provide the CMRS
8 service and will not provide any party with a competitive advantage.

9 Section Two. Section 11 of P.L. 25-55 is hereby amended to read:

10 11. **Violations of this Act.** Any person or entity which the Commission
11 determines has violated any provision of this Act or any Commission order shall

1 be given proper notice and be allowed a reasonable opportunity to cure the
2 violation. Thereafter, in the event of failure to cure, the Commission ~~may refer~~
3 ~~the violation to the Attorney General for prosecution. Any person or entity that,~~
4 ~~having the responsibility of complying with this act or a Commission order, fails~~
5 ~~to cure such violation shall be fined a civil penalty not to exceed Ten Thousand~~
6 ~~Dollars (\$10,000.00) per infraction. Any such penalty shall be deposited into the~~
7 ~~Fund~~ may exercise its enforcement powers under 12 G.C.A. Section 12108
8 against the violator and may use its own attorney to do so.