

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

H.B. NO. 10-300

SECOND REGULAR SESSION, 1996

AN ACT

To exempt sales of liquid fuel to the Commonwealth Utilities Corporation from the liquid fuel tax; and for other purposes.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This act may be known and cited as the “Commonwealth Utilities Corporation Fuel Tax Exemption Act.”

Section 2. Findings and Purpose. The Legislature finds that the Commonwealth Utilities Corporation, which is wholly owned by the Government of the Commonwealth of the Northern Mariana Islands, is required to recover its operating costs through rates charged to its customers for service. The Legislature further finds that the Commonwealth Utilities Corporation purchases a large amount of liquid fuel each year which is subject to the Liquid Fuel Tax of 15¢ per gallon. The Legislature further finds that the financial impact of this tax increases the cost of fuel to CUC by approximately \$3.16 million per year. The Commonwealth Utilities Corporation is required to pass this increased cost on to its customers, which results in higher electricity costs within the Commonwealth. The Legislature also finds that it will benefit the people of the Commonwealth of the Northern Mariana Islands to lower the Commonwealth Utilities Corporation’s cost of generating electricity. The purpose of this bill is to grant an exemption from the Liquid Fuel Tax for sales of liquid fuel to the Commonwealth Utilities Corporation, which will result in lowering the Commonwealth Utilities Corporation’s cost of generating electricity.

Section 3. Amendments.

(a) 4 CMC § 1403 is amended by adding a new subsection (c) to read:

"(c) The Liquid Fuel Tax imposed by subsection (a) shall not apply to sales

of liquid fuel to the Commonwealth Utilities Corporation for the purpose of power generation; Provided, that the Commonwealth Utilities Corporation complies with the requirements of 4 CMC § 8141 (h). In the event the tax has already been paid at the time the liquid fuel is sold to the Commonwealth Utilities Corporation, the Secretary shall provide the taxpayer with a credit in the amount of the tax paid under subsection (a) applicable to the liquid fuel so sold."

(b) A new subsection (h) is hereby added to 4 CMC § 8141 to read:

"(h) The Corporation shall place 15 cents from its general revenues into a special reserve account for each gallon of liquid fuel purchased, at the time of each such purchase of liquid fuel. As used in this subsection, "liquid fuel" means fuel exempted from taxation by 4 CMC § 1403(c). In addition, the Corporation shall upon receipt place into the special reserve account a portion of its general revenues equal to the average percentage of revenues spent during fiscal years 1994, 1995, and 1996 on the purposes for the fund herein specified. Funds from this account shall be expended only for the following purposes and not including payroll:

- (1) overhaul of generating equipment;
- (2) power plant preventive maintenance;
- (3) procurement of service vehicles and heavy equipment;
- (4) replacement of obsolete or damaged equipment, including procurement of replacement parts;
- (5) procurement of additional generating capacity;
- (6) replacement of power poles and power lines; and
- (7) maintenance and upgrade of transmission and distribution systems, including transformers, insulators, substations, and related parts, equipment, and facilities.

In the event the Corporation fails to comply with the requirements of this subsection, it shall pay into the Commonwealth general fund an amount equal to any funds which it failed to place in the special reserve account or which, having been placed in the reserve account, were improperly spent. The Public Auditor shall monitor compliance with this subsection."

(c) The first paragraph of 4 CMC § 8123, which currently reads: "In order to carry out its duties, the Corporation shall have all of the powers conferred by law on a public corporation, and all powers reasonably incidental to its purpose, including the powers:" is hereby amended to read as follows, with the remainder of such section, its other subparts and subsections to be unaffected by this amendment or this Act:

"Except as otherwise provided or limited in this Chapter, or by other law, in order to carry out its duties, the Corporation shall have all of the powers conferred by law on a public corporation, and all powers reasonably incidental to its purpose, including the powers:"

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 6. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 22nd day of October, 1996

/s/ Jesus C. Borja

~~FROILAN C. TENORIO~~ JESUS C. BORJA

Acting Governor

Commonwealth of the Northern Mariana Islands