



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

1 **EXECUTIVE ORDER 2010-08**
2
3

4 **DECLARATION OF A STATE OF DISASTER EMERGENCY:**

5 COMMONWEALTH UTILITIES CORPORATION'S
6 IMMINENT GENERATION AND OTHER FAILURE AND THE NEED TO
7 PROVIDE IMMEDIATE RELIABLE POWER, WATER AND WASTEWATER
8 SERVICES
9

10 **CONTINUATION #24**
11

12 I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the
13 Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth
14 Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby
15 declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands
16 due to the inability of the Commonwealth Utilities Corporation (CUC) to provide critical power
17 generation service to the CNMI and the extreme, immediate and imminent threat such condition
18 poses to the Commonwealth of the Northern Mariana Islands.
19

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

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

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47

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 are incorporated by reference, except as specifically varied in this Executive Order.
8

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

11
12 2. **Summary.** A shortage of manpower forced by legislation limiting skilled foreign workers
13 has continued to place CUC operations at risk. Incipient failures in the CUC water, wastewater
14 and power transmission and distribution networks have underscored the importance of having in
15 place a well-funded and functioning preventive maintenance program. Skilled workers and a
16 responsive support system are key to the success of the operations, particularly of preventive
17 maintenance. Presently CNMI law (PL 16-14) prohibits CUC from hiring any more non-US
18 technical workers than the 19 skilled professionals recently with CUC. CUC has repeatedly
19 asked the Legislature for relief from this statute regulating the Government's workforce, to no
20 avail. Further, errors in wording in the CUC enabling legislation recently re-enacted, PL 16-17,
21 as amended, would bar the Executive Director from day-to-day management of the corporation,
22 effectively shutting CUC down. This EO eliminates these problems while it is in effect.
23

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

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

- 35 a. The first requires the upgrade and smooth functioning in virtually all aspects of
36 CUC's water and wastewater divisions. The second requires CUC to properly
37 eliminate over 400,000 gallons of used oil and to institute measures to avoid
38 uncontrolled buildup of such inventories. Failure to meet the requirements of the
39 federal court orders could subject CUC and the CNMI to substantial fines and
40 charges, and, in the extreme, to a federal takeover of their finances. Presently
41 CUC is "accruing" substantial fines. Most of the fines have not been levied; but

1 they could be. The EPA has, however, levied two fines, in the amount of \$29,000
2 and \$140,000 (June 2010 letter).

3
4 b. On February 24, 2010, the US District Court entered an additional stipulated
5 order. It provided, among other things, that a professionally-developed Interim
6 Financial Plan (“IFP”) would be provided to the US EPA within 30 days, by
7 March 26, 2010. This additional stipulation requires CUC to meet a number of
8 deadlines, each involving the application of technical expertise. CUC has timely
9 filed the IFP. It now has the task of implementing the IFP and meeting these
10 deadlines. Failure to meet these requirements would subject CUC to the
11 described sanctions.

12
13 c. Of concern to CUC are the tight deadlines for Stipulated Order 2 (Oil
14 Management) projects that are funded by a \$4.05 million CIP grant awarded in
15 February, 2010, by the US Department of the Interior’s Office of Insular Affairs.
16 The funding is to assist CUC is disposing of the used waste oil discussed in this
17 Executive Order. Failure to meet the deadlines could subject CUC to additional
18 EPA sanctions.

19
20 d. The coordination of the approvals from the various agencies calls for a responsive
21 procurement system at CUC, including the trained technical staff to implement
22 the system.

23
24 5. CUC is thoroughly regulated by the Commonwealth Public Utilities Commission (“CPUC”).
25 The regulator has plenary power over CUC rates, charges, fees, operations and capital
26 investments. CUC’s failure to timely and competently meet CPUC orders and other
27 requirements can result in severe rate discipline, and fines and other penalties. For example, the
28 Commission required CUC to meet certain requirements, including the filing of a technically
29 complex rate case (Docket No. 10-01) by the end of January 2010, or face fines of \$500 per day.

30
31 6. CUC is the sole electricity supplier to the Government of the CNMI, including all public
32 safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the
33 CNMI’s businesses and homes. While some businesses and agencies own backup generators,
34 they are not generally organized to use the backups as permanent power sources; and the diesel
35 oil purchased to run these generators is substantially more expensive than that used for CUC
36 power.

37
38 7. Without CUC electricity:

39
40 a. most CNMI economic activity would come to a halt, the courts would soon close,
41 much refrigeration and air conditioning would end, and the airports and ports

1 would be forced to rely on emergency generation and the limited, expensive oil
2 supply for it;

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

24

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

32

33 ■

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

35

36 9. CUC continues to maintain and rehabilitate its owned power plants. CUC tries to maintain
37 and rehabilitate the operating units to adequately meet load. CUC has secured federal funds to
38 buy many needed parts to avoid outages. CUC began the needed overhaul of PP #1 unit DE-5 in
39 September 2009. In October four other units began required overhaul, which will take 12
40 months.

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

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

9
10 12. In effect, CUC management, with generous federal financial assistance, has brought its
11 generation back from the brink of system failure. There are adequate reserves. If maintained
12 properly, the system can provide the CNMI's citizens and residents with adequate power.

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

19
20 14. With respect to CUC's lines, equipment used by CUC's Transmission and Distribution unit
21 ("T & D"), including many vehicles, is dilapidated and bordering on being unsafe. There is an
22 insufficient number of skilled workers to operate T & D. The linemen must be trained to, and
23 skillful in, meeting US standards. Fortunately, a federal DOI/OIA grant paid for some lineman
24 training in June. The critical upcoming projects in T & D include the replacement of the
25 antiquated, rundown and unsafe vehicle fleet; the redesign of T & D using national Rural Utility
26 Service standards; the replacement/installation of insulators, transformers, overcurrent
27 protection, sectionalizers and the installation of efficient LED street lighting.

28
29 15. For example, Saipan's early-September 2009 brush with Typhoon Choi-Wan 15W that
30 passed to the north of Saipan, and typhoon Melor, which passed just north of Saipan in October
31 2009, underscored the extreme vulnerability of CUC's power transmission and distribution
32 system. In September 2009, over 150 calls of no-power and line faults were fielded by crews
33 when, for a storm of this size, there should have been no more than a score. Fortunately, last
34 year's typhoon season ended with no direct hits on the CNMI and the power distribution system.
35 Accelerating improvements to the T & D system, with proper staff under an Emergency Order,
36 would allow CUC to "harden" the system in anticipation of a bigger storm event. The
37 alternative, in a more serious storm, is CUC's inability to recover in any reasonable time period.
38 The year 2010 will see a new typhoon season.

39
40 16. Nonetheless, for the third month in a row, outages due to Power Transmission &

1 Distribution were extremely low: May saw only 11 minutes; April just one minute. These are
2 the lowest such figures in the last seven years, reflecting an extraordinary accomplishment for an
3 understaffed, overworked CUC work group.
4

5 17. Further, utility industry safety margins for isolated, island systems typically require a
6 reserve equal to the capacity of the two largest generating units. In CUC's case this would be
7 another 15 MW of load, equivalent to the departed Aggreko temporary units. Meeting this
8 reserve requirement means CUC must have an adequate repair and maintenance staff.
9

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

17 19. PMIC at PP #4 and Telesource on Tinian, and the Rota Resort on Rota, as Independent
18 Power Producers (IPPs), are not subject to the Legislature's limitation or prohibition on foreign
19 workers. Nor are consulting firms that provide specialty utility industry services.
20

21 20. There are not enough technical specialists at CUC to get the power generation work done,
22 particularly specialists with experience in the type of engines that CUC uses. CUC believes that
23 the vast majority of skill sets must come from non-US personnel.
24

25 21. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding
26 all the qualified candidates. In the summer of 2009 CUC identified 16 potential new staff after
27 interviews – 7 mechanics, 1 welder, 1 machinist, and 7 operators. Two of the operator
28 candidates were US citizens.
29

30 22. CUC has hired some local staff in time thanks to the aggressive steps of CUC HR, the
31 Executive Director and earlier versions of Directive 10.
32

33 23. CUC has hired skilled trade technicians needed on Saipan for power plant operations and
34 maintenance. For Rota, CUC announced the need for a mechanic-operator and an electrical
35 operator. As more units begin working after the rehabilitations are largely complete, CUC will
36 need more staff to operate and maintain them. For the foreseeable future, CUC needs to
37 maintain its complement of skilled workers.
38

39 24. With generous grant funding and the use of in-house technical specialists and outside
40 contractors, CUC has undertaken substantial rehabilitation of its power system. Future projects
41 include replacing turbochargers, conserving and reclaiming used lube and waste oil, retrofitting

1 streetlights with low-wattage LED's, and restoring power generation and adequate distribution
2 on Rota. Even if contractors do the work, CUC technical staff must research and prepare bid
3 documents, review technical proposals, and oversee the work.

4
5 25. The bottom line on CUC's technical work has been a substantial increase in reliability,
6 specifically the availability of CUC's generation. CUC's transmission and distribution has
7 similarly improved – January 2010 saw 10 hours 44 minutes of outages, April 2010 saw one
8 minute. It was critical to this latter improvement that CUC had the skilled, trained work force to
9 maintain power lines.

10
11 26. But even as power becomes more reliable, CUC must reduce its distribution losses from the
12 reported level of 8%. With world oil prices increasing CUC's power costs, such losses already
13 account roughly for \$4.8 million, which CNMI customers must cover. CUC requires a team of
14 skilled technicians to find and eliminate power theft and line losses.



17 27. The impact of an inadequate workforce would be four-fold:

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

1 rise will thereby harm CUC's customers and electricity-dependent services with
2 higher rates.
3

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

17 29. Since E0 2009-8 in August, and the suspension of the harmful legislative employment
18 restriction, CUC has taken steps to hire the expertise to operate and maintain the Saipan and
19 Rota power generation facilities. CUC needs to be able to hire the workers it needs when it
20 needs them. Otherwise, if CUC had to discharge these workers, its staffing levels would return
21 to those which overworked its limited staff. For example, over pay period numbers 2 through 11
22 of the year 2009, CUC accumulated 18,053 hours of overtime from technical employees who
23 each worked 40 or more hours of overtime in a pay period. This condition is extreme, and a
24 repeat can result in inefficiencies and poor work quality. It can lead to dangerous mistakes,
25 producing injury or death.
26

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

32 31. CUC points out that the power distribution system is highly vulnerable because, like the
33 sewer system, so much of the maintenance and replacement was deferred for one reason or
34 another over the past 20 years. Since 1995, 26 villages on Saipan were identified as needing
35 major improvements to the power lines; only five have seen those improvements. Power T & D
36 fails in bits and pieces. One of the big pieces that failed in February 2010 was one of 12
37 termination cables on the Kiya Substation (Transformer One). A power outage to the southern
38 parts of Saipan lasted from one to five hours. CUC management states that the excellent
39 response from the crews in both Power Generation and Power T & D demonstrated the
40 importance of having skilled workers. The top two engineers were non-residents. Without this

1 EO in place, given present statutes, it is unlikely CUC would be able to secure the services of
2 such valuable individuals.
3

4 32. The extended dry season this year (see below) means that vegetation must be cleared away
5 from the lines early and often. Brush fires can damage the power lines, telephone facilities, and
6 television cables. Meanwhile, CUC crews must replace failing insulator bolts and failing
7 switches in order to avoid distribution-related power outages.
8

9 33. CUC has demonstrated that the required workers are available as nonresident workers, and
10 cost-effectively so. Thus, continued relief from the legislative prohibition of hiring foreign
11 national workers is necessary to ensure the delivery of uninterrupted power services to the
12 people of the Commonwealth.
13

14 Ⓐ

15 **Complying with the federal court order on disposal of used oil**
16

17 34. CUC has taken concrete steps to address the storage and disposal of used oil, consonant
18 with the federal court's Stip Order 2. Federal court Stipulated Order 2 relates to the used oil
19 from the engines for four facilities (Power Plants 1, 3, 4 and Rota) and all CUC transformers.
20 *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order 2"). With an
21 adequate complement of trained technical employees, complemented by expert contractors, CUC
22 believes that it can meet the Stip Order requirements.
23

24 35. A September 2009 inspection by the US Coast Guard (USCG) resulted in the imposition of
25 another cost that was unanticipated even with Stip Order 2. The USCG now requires additional
26 and more stringent measures to contain or eliminate the possibility of any oil reaching the ocean
27 from Power Plants 1, 2 and the power plant on Rota. Further, as of October 2009, CUC has
28 faced the following staffing needs in this area: It critically needs the resources to inspect and
29 redesign the entire fuel storage, pumping and handling system in order to meet the more
30 stringent requirements of today. The clean fuel storage tanks at Lower Base were originally
31 designed for another application. The fuel line from the oil company's terminal is in danger of
32 rupturing during a transfer; the pumping rate has to be reduced to prevent this. Fixing all of this
33 requires trained CUC staff.
34

35 36. Serious deficiencies in the waste oil handling system at Lower Base have come to light in
36 the past months and are being addressed by both CUC and EPA. One deficiency is that the oily
37 water separators are not functioning as such because of the excessive amount of oil (as opposed
38 to water) entering the system. As a result, oil was spilling onto the ground rather than being
39 separated and skimmed off properly. Power Plant #1 has been sealed off to prevent any waste
40 oil from leaving the plant and flowing into the oily water separators. To prevent oil from
41 accumulating uncontained in the plant itself, emergency measures have been taken to store waste

1 oil and to fabricate above-ground tanks. The oily water separators, pipes, holding tanks, and
2 baffles are being cleaned out so that the entire system can be carefully inspected and
3 re-engineered. All of the additional work is expensive. Regardless of who does the work
4 initially, CUC staff, EPA contractors, or a combination thereof, CUC requires skilled, trained
5 workers for the clean-up. Failure to correct this situation could harm the nearby environment,
6 CUC's ability to generate electricity properly, and the assurances given pursuant to Stip Order 2.
7 CUC has hired an Oil Technical Manager.

8
9 37. Incinerators play a crucial role in helping CUC meet Stip Order 2. The two incinerators at
10 Lower Base (Power Plants 1 and 2) are now operating, and burning about 1000 gallons of used
11 oil per day. One had to be taken out of service due to mechanical issues, is being repaired by a
12 contractor, and the contractor's work must be approved by the Deputy Director for Power
13 Systems, a non-US-citizen. This EO has permitted Power Generation the flexibility of hiring
14 skilled non-US-citizens to not only repair and overhaul the generating sets, but to fix and
15 supervise such important auxiliary equipment as the incinerators.

16
17 38. Nonetheless, the EPA on February 18, 2010, filed a status report with the US District Court
18 for the Northern Mariana Islands which is highly critical of the progress in CUC's efforts to
19 comply with Stip Order 2's requirements to solve the used oil situation. Since that report CUC
20 has contracted with the GRESCO firm to remove waste oil from Tank 104. The EPA has
21 strongly urged CUC to accelerate the removal, bringing the "empty" date forward from October
22 2010 to July 30, 2010. CUC found two additional special double-walled "ISO" tanks for use in
23 the project, to add capacity to the contractor's six tanks. As a result, GRESCO transferred just
24 under 180,000 gallons of used oil to Guam by July 15.

25
26 39. Presently CUC is in process on these specific efforts to comply with Stip Order 2's
27 requirements, with federal funding authorized: Technical Manager sought for oil position;
28 secondary containment (new and repair) has received permits and NEPA clearance, and
29 construction has begun; oil disposal for Saipan's Tank 104; oil transfer pipeline for Lower Base
30 design work commenced, construction contract under review by CPUC, with a target in-service
31 date of February 24, 2011; oil handling and training commenced; used oil sampling laboratory in
32 California contracted; used oil tank system integrity testing and cleanout's RFP published; oil-
33 water separators in planning stage; used oil transfer and solid waste disposal for Saipan and Rota
34 are in planning stage; facility response plan ("FRP") for oil spills is in negotiation stage with a
35 new Saipan-based firm.

36
37
38 

1 **Complying with the federal court order on managing the water and wastewater systems**
2

3 40. As long as the Water and Wastewater Divisions can hire competent staff and receive power
4 from the Power Division, they can function.
5

6 41. The U.S. Department of Justice (“DoJ”), Environment and Natural Resources Division, has
7 sued CUC in federal court to come into compliance with critical water and sewage treatment
8 requirements. *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) (“Stip Order
9 1”). *See also* http://www.usdoj.gov/enrd/Consent_Decrees.html. In July 2008 CUC, the CNMI
10 and (in September 2008) the U.S. Environmental Protection Agency (“EPA”) stipulated to this
11 first of two orders lodged with the U.S. District Court on the date the Complaint was filed. This
12 order requires CUC to implement a series of improvements to its water and wastewater systems
13 that respond to years of neglect, for which it presently lacks the funds and the complete technical
14 capability.
15

16 42. Sewage collection piping failures are continuing at an accelerated rate. The Wastewater
17 Division must respond to acid damage in the asbestos cement piping system, the product of over
18 30 years of anaerobic conditions in sewers. This has caused significant damage to cement and
19 metal infrastructure, so that key pipe systems have collapsed. December 18, 2009, saw the sixth
20 failure in six months. Failures will continue until 10 miles of sewer pipe are replaced. But
21 replacement involves complex excavations, avoiding electric, phone and water utilities, blocking
22 traffic, stopping the infiltration of seawater (which damages treatment plant facilities), and
23 pumping sewage around blocked and excavated areas. The Division has already far exceeded its
24 repair budget.
25

26 43. Providing and improving water service presents new challenges. With DEQ’s classification
27 of Rota’s cave-based domestic water as “surface water” CUC has had to expand water quality
28 monitoring and testing, requiring more manpower and more equipment. In May 2010, CUC
29 experienced failures in water pipes as the Cross-Island road project’s contractors’ equipment
30 broke pipes, requiring CUC staff to be pulled from other jobs, with required equipment, to
31 address the emergency. In addition, a substantial section of the As Terlaje sewer line collapsed,
32 requiring an emergency procurement to hire an outside firm to make the repair.
33

34 44. Sewer line collapses are not uncommon, typically the result of pipe thinning. CUC
35 investigates and undertakes repairs. Without this EO, says CUC, procurement for such repair
36 work would constitute a significant impediment.
37


38 45. The Sadog Tasi Wastewater Treatment Plant is undergoing long-planned rehabilitation.
39 But, without such redundant equipment as a clarifier, CUC must devote extra resources to the
40 facility while the contractor repairs the only unit. Such work has to be conducted within strict
41 parameters by properly trained technicians to prevent contamination of the environment. Due to

1 equipment malfunctions, sludge is not pressed, which may have produced unacceptably high
2 July levels of enterococci in effluents from both the Sadog Tasi and Agingan Point treatment
3 plants.

4
5 46. The Division also needs serviceable vehicles to move its workers to and from job sites.
6 Presently six vehicles are in such bad shape that they are dangerous. The resulting reduced
7 vehicle problem raises costs and hurts service, as staff and materials cannot be brought to job
8 sites on time.

9
10 47. Sewage lift station failures continue, requiring CUC crews to install newly received pumps.
11 Approximately 17 of the 45 CUC sewage lift station are in poor condition and require significant
12 rehabilitation. CUC anticipates an EPA grant for the rehabilitation of these lift stations. But
13 that construction will not occur for approximately one year. In July there was a sewer blockage
14 in the CK and Susupe areas, and CUC lacked the equipment to repair it; its usual contractor also
15 suffered equipment problems.

16
17 48. CUC engineer staff shortages continue to hamper CUC's ability to anticipate and fix
18 technical problems. While CUC's Water/Wastewater Division employs four engineers, the poor
19 condition of the CUC sanitation assets requires at least two more engineers. But, significant
20 engineering resources are already focused on addressing EPA Stip Order 1 issues. These issues
21 include staffing plans, pre-treatment programs, materials management programs, customer
22 inventory, and cross-connection control programs. CUC water and wastewater engineers are the
23 lead with several on-going construction projects, which also stretches the limited engineering
24 resources, including the Well Isolation Project, Sadog Tasi Sewer Plant Rehabilitation, and
25 Agingan Sewage Treatment Plant Rehabilitation. Recruitment and retention of engineering staff
26 to meet these challenges is difficult.

27 
28 49. Incipient failures include the failure of 98 submersible pumps in the water system over a
29 period of twelve months. Higher grade stainless steel grates have to be specified that are resistant
30 to pitting. The pitting causes the grates to fail and consequently the pump motors. CUC will
31 need to purchase higher quality equipment, rather than the cheap units that fail prematurely.

32
33 50. CUC must be able to hire the staff to perform the required technical functions. The Water
34 and Wastewater Divisions cannot carry out their missions without adequate staff. These staff are
35 essential to producing clean, safe water supplies and removal of stormwater and sewage in a
36 safe, timely manner. While the bulk of CUC employees are drawn from local and US
37 populations, the Division management estimates that at least six trained technicians will be
38 required – three experienced Level 3 wastewater treatment operators, two Level 3 wastewater
39 collections operators, and an instrumentation /low voltage controls specialist. An experienced
40 Water/Wastewater Division operations manager will be required. CUC requires a chemist to
41 meet federal requirements, but has been unable to find a qualified one in the local population, or

1 a cost-effective professional from the US Mainland; a foreign hire has been identified, however.
2 CUC has also announced a vacancy of the position for Deputy Director for Water and
3 Wastewater. Seven candidates will be reviewed and evaluated by a team which includes the
4 Executive Director.

5
6 51. There are special reasons why the water system must be adequately staffed and maintained
7 this year. This was an El Nino year, and water was relatively scarce. As predicted in the Pacific
8 ENSO bulletin forecast back in February 1, 2010, the CNMI dry season brought below normal
9 rainfalls into June 2010. CUC went into an emergency mode, conserving water, accelerating
10 water line replacements, and locating and repairing leaks. There was greater danger of fires this
11 year, with less water available to fight them. For Capital Hill, the drought and a tank
12 rehabilitation project required that the distribution system in this area be reconfigured in June
13 2010 in order to supply water at least two hours per day to Wireless Ridge. Upper reaches of
14 Navy Hill were without water for several days until leaks were repaired. With the rainy season
15 the aquifers are only slowly replenished. As a result Garapan is seeing in July fewer hours of
16 water service. Unfortunately, the leaks were noted several months before, but lack of manpower
17 and funds prevented the pressurization required for leak repair. In July the Kagman booster
18 pump failed, and until it is replaced the Papago area will see less water delivered.

19
20 52. CUC also requires a constant supply of electricity to run its water and wastewater treatment
21 systems. CUC has very limited on-site emergency generation capability, and for only portions
22 of these systems.

23
24 53. Meanwhile CUC continues to pay for power, chlorine, lab testing costs, and repairing
25 collapsing sewer lines. CUC has hired a consulting team to assist it in achieving full cost
26 recovery for the water and wastewater systems through the processes of the CNMI Public
27 Utilities Commission ("CPUC"). CUC filed a wastewater rate increase request, complete with
28 hundreds of pages of written expert witness testimony and technical support, on January 31,
29 2010. The Commission addressed the filing in May, authorizing a June 21, 2010, rate increase in
30 wastewater rates and full cost recovery for the electric costs of the water and wastewater
31 divisions.

32
33 54. Nonetheless, the EPA on July 21, 2010, filed a status report with the US District Court for
34 the Northern Mariana Islands which is highly critical of the progress in CUC's efforts to comply
35 with Stip Order 1's requirements to solve the water and wastewater situations. It included a
36 statement that tests in June and July each showed violation of the maximum contaminant level
37 drinking water standard for total coliform bacteria. (7-21-10 Status Report, p 6 fn 5) A hearing
38 before the Court is scheduled for August 4, 2010. The prior status hearing resulted in the
39 additional stipulated order addressed elsewhere in this Executive Order.
40
41

1 ■
2 **Meeting US District Court and CNMI Public Utilities Commission requirements to**
3 **produce timely, accurate financial reports**
4

5 55. The federal Stip Orders require CUC to produce and carry out an Interim Financial Plan,
6 beginning in September, 2009. The “IFP” must develop over time, becoming more than
7 “interim”. CUC cannot do this unless it has a staff of trained accounting and other financial
8 experts who can gather data, put the data in the required form and generate the IFP and its later
9 versions.

10
11 56. Further, CUC is comprehensively regulated by the Commonwealth Public Utilities
12 Commission (“CPUC”). The CPUC is charged by statute to oversee carefully CUC’s operations
13 and capital expenditures, and to develop rates that fully pay the costs of safely operating CUC’s
14 water and wastewater systems.

15
16 57. In electric and water/wastewater orders, of September 3 and November 20, 2009, the CPUC
17 addressed CUC’s inability to deliver complete on-time financial reports, requiring CUC, in
18 effect, to enhance its staff capability to provide critical regulatory information. (Docket No.’s
19 09-1 and 09-2.) The Commission revisited CUC rates, fees, charges and operations during this
20 year, including in the recent rate case, Docket No. 10-01. CUC’s Executive Director was a lead
21 witness in the case, having filed written testimony (on January 31, 2010) and supplemental
22 testimony (on April 1, 2010).

23
24 58. CUC cannot upgrade its financial and accounting operations unless it has a staff of trained
25 accounting and other financial experts who can gather data, put the data in the required form and
26 generate the required reports and filings with the CPUC, as well as provide the CPUC consulting
27 staff with the data required for their oversight. CUC has obligated itself to provide an updated,
28 compliant Interim Financial Plan and an organizational evaluation, both pursuant to Stip Order 1,
29 to the US District Court, and most recently, according to the February 24, 2010, additional
30 stipulated order. CUC submitted an IFP on March 26, 2010. But EPA has yet to approve it.

31
32 59. CUC’s procurement system is lengthy and complex. A relic of other decades, with their
33 own challenges, it requires extensive technical experience in specifications and the procurement
34 process, and often must be coordinated with the CNMI’s separate procurement procedures,
35 adding months to processes that must respond to the immediate challenges outlined in this
36 Executive Order.

37
38 60. CUC last year lost 2 senior accountants plus a related specialist. The IT and billing
39 department in August 2009 was reduced by one staffer, having advertised for a replacement for 4
40 weeks to no avail. While it appeared that CUC might have to look to employing foreign
41 technical specialists, CUC hired back 2 former accountants in September 2009 and brought a

1 third person aboard in October. All are US citizens. Nonetheless, CUC must have the flexibility
2 to hire competent professionals as needed. CUC is still short-staffed, and needs an accounting
3 assistant, and an accounting specialist. On February 17, 2010, CUC's new Chief Financial
4 Officer reported for duty.
5

6 61. CUC's decades-old financial and accounting system computer failed repeatedly during the
7 last three months, including for a complete week. Already-over-committed finance and
8 accounting staff were required to put in days of extra time in hand-recording customer payments
9 and hand-generating bills. It failed again this week, on July 19.
10

11 62. Nonetheless, the EPA on February 18, 2010, filed a status report with the US District Court
12 for the Northern Mariana Islands which was highly critical of the progress in CUC's efforts to
13 comply with Stip Order 2's requirements to provide timely and complete financial and other
14 operating reports and plans.
15

16 63. To summarize: Without properly trained technical staff CUC's ability to supply power is at
17 risk. So is its ability to manage the rest of its systems, including its complex procurement, its
18 finances and accounting. CUC's services could not be adequately staffed without the lifting of
19 the artificial legislative regulation of CUC's workforce, in EO 2009-08, Directive #10,
20 suspending the limitations on CUC hiring foreign workers. It is obvious that the hiring authority
21 must be continued.
22

23 64. In fact, during July - September 2010 over 18 CUC employment contracts for non-citizen,
24 technical specialists will require renewal. Failure to timely renew could cripple CUC's efforts to
25 provide service and meet federal requirements. There is no indication that any of the above
26 manpower situation will be resolved in the next month without continuing in effect this EO and
27 Directive #10.
28



29 MANAGEMENT CRISIS IN ABSENCE OF A PROPER BOARD/CEO STRUCTURE

30
31
32 65. **Summary.** CUC is a \$70 million-per-year business, critical to the CNMI's economy and
33 the public health. Yet, the recently-renewed statute organizing it places the Board of Directors
34 in the position of day-to-day management of the corporation, and requires a complex mix of
35 technical, geographic and other qualifications for Board membership. There is no Board because
36 it has been impossible to meet these criteria. Without the Board, or its equivalent, CUC cannot
37 take a critical step toward solvency and the ability to borrow to finance its work.
38



1 **Forestalling corporate paralysis**
2

3 66. A critical concern is that the CUC Act's constricted scope of authority for the Executive
4 Director, and the complementary daily management by a host of Board volunteers, would
5 paralyze the corporation. This is particularly worrisome in light of the above-listed tasks before
6 CUC.
7

8 67. A careful reading of the CUC Act, PL 16-17, as amended, particularly its sections 4 CMC
9 §§ 8131 (Bd qualifications), 8134 (Bd approval of all "allocations" of money and property), and
10 1 CMC § 8247 (limited daily reimbursement of \$60.00); 4 CMC §§ 8132 (E.D. described), 8133
11 (limited E.D. functions listed), and 8134 (Bd approval of all "allocations" of money and
12 property), demonstrates that the Executive Director is to be left with little more to do than
13 provide reports to a Board of volunteers who are nonetheless to run CUC, a complex \$70
14 million/year corporation, on a day-to-day basis. This includes such decision-making as
15 purchasing materials and supplies, signing paychecks and other checks, hiring staff, assigning
16 work crews, connecting customers, deciding on making repairs, collecting debts, complying with
17 the details of federal and CPUC regulatory requirements, making and funding long-term
18 technical power and water/wastewater plans, overseeing filings with the CPUC, including rate
19 cases, and insuring that, on a day-to-day basis, the power and water flow and the sewage is
20 treated.
21

22 68. Permitting CUC to be managed this way would plunge the CNMI into economic chaos and
23 a public health care crisis, as corporate activity and the Hospital's operations ground to a halt –
24 with or without a Board in place. The complex technical problems listed above simply cannot be
25 managed on a day-to-day basis by a group of non-expert volunteers. For example, the Executive
26 Director had to be available to renegotiate CUC's fuel oil contract this year, and insure that fuel
27 supplies reached Tinian and Rota, as well as Saipan. Also, as a key witness in the recent CPUC
28 Docket 10-01, and in future rate cases, the Executive Director must be enabled to testify in favor
29 of the requested rate increase in order to fully present the required evidence.
30

31 69. No private or public utility company in the United States runs this way – with a group of
32 volunteers managing a \$70-million corporation's day-to-day operations. No other legislature in
33 the United States has mandated this form of corporate management for a public utility.
34

35 70. CUC has applied for and become eligible for millions of dollars of US ARRA grants,
36 which can substantially benefit the CNMI's infrastructure and create jobs. CUC has been
37 awarded \$11 million in grants from the EPA. But developing the grant requests and
38 implementing the grants requires management attention and expertise, part of a professionally-
39 run business organization. CUC has placed ARRA grants out for bid, so that these benefits can
40 start flowing. CUC must evaluate its needs, and hire and contract for the needed technical

1 specialists to manage the grant-funded projects. This requires a corporate structure capable of
2 making and sustaining important decisions.

3
4 71. I can only conclude that the legislation's extraordinary structure for CUC is the result of a
5 drafting error, and the People, through their elected representatives, wish their utility company to
6 continue to supply them with essential services at a reasonable cost, meeting industry standards.

7
8 ¶

9 **Fixing CUC's technical insolvency**

10
11 72. CUC has been unable to borrow money to run its operations since the inception of this State
12 of Disaster Emergency due to (a) its poor financial condition and (b) the existence on its books
13 of a liability to the Commonwealth Development Authority ("CDA") of approximately \$115
14 million. This situation may be corrected if the Executive Director is recognized to have the
15 authority to correct it. Part of this situation, the CDA relationship, has been corrected precisely
16 because the Executive Director was empowered by this Executive Order to do so.

17
18 73. Meanwhile, billings and collections are substantially below the levels required to prudently
19 manage CUC's current operations and provide for system repairs, replacements and upgrades.
20 For example, billings alone for water and wastewater are less than 70% of requirements to run
21 those two systems. This will change as the PUC's June 2010 rate increase takes effect.

22
23 74. The booked CDA obligation rendered CUC nominally insolvent. While CUC was deemed
24 insolvent, CUC could not borrow money. But CUC must be able to borrow money to bridge the
25 gap between (a) the need to spend money on essential goods and services to provide electricity,
26 water and sewage service, and (b) the lagged collection of already-determined-insufficient
27 revenues from the sale of those services.

28
29 75. The CPUC, in its September 3, 2009, electric order, Docket No. 09-1, approved a CUC-
30 CDA settlement converting the CDA debt to preferred stock. But the deal has required CUC's
31 Board to agree to it.

32
33 76. There is no Board. CUC has functioned without a Board of Directors, because it has had to.
34 While CUC's enabling act, reenacted as PL 16-17, as amended, authorizes a Board, there is no
35 CUC Board yet because, while the staff of the Governor's Office have diligently tried to find
36 Board volunteers who meet the complex statutory qualifications, they have been unable to do so.
37 Nonetheless, CUC must continue to function, including borrowing money.

38
39 77. EO 2009-08's Directive # 9 provides the required authority to the Executive Director. It
40 also permits him to continue to run CUC, carefully manage cash to pay tens of millions of
41 dollars annually for fuel oil and purchased power, and do all the things necessary to providing

1 power, water and wastewater services, until the remaining members of a properly constituted
2 Board can be identified, confirmed, and convened for business. In February 2010 the Executive
3 Director delivered to CDA management the stock certificates required for the debt-equity
4 conversion. CUC has received the fully executed copy of the Stipulated Notice of Dismissal
5 (with prejudice) in CDA v. CUC, Superior Court Civil Action No. 01-0248D (4/21/2010), which
6 the CPUC has required that CDA provide to make effective the conversion of the CDA debt to
7 preferred equity. CUC has sought Public Utilities Commission final approval. The Commission
8 provided that approval in the rate order authorized at its May 28, 2010, business meeting. Soon,
9 CUC must be able to demonstrate to the financial community that it is properly managed, so that
10 it can borrow and pay back long term capital.

11
12 □

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

14
15 78. The broad and comprehensive statutory scheme of utility regulation in the Public Utility Act,
16 4 CMC §§ 8401-84, provides that the utility regulator, the CPUC, will carefully examine CUC
17 activities, particularly financial activities.

18
19 79. This extensive oversight satisfies the policy need for a body of arms-length, well-informed
20 citizens to watchdog the activities of this, the Commonwealth's key resource. Thus, the statute's
21 error-infused creation of a volunteer Board which would run the corporation on a day-to-day
22 basis, becomes much less important than satisfying CPUC requirements.

23
24 80. What becomes very important is CUC's capability to provide the CPUC with accurate and
25 timely financial and accounting information. But such reporting is not possible without a
26 competent, trained staff of accounting and financial experts at CUC, and a properly-empowered
27 Executive Director to lead them.

28
29 □

30 **Addressing a critical financial challenge**

31
32 81. CUC faced a financial crisis in June 2010. It was critically short of funds to buy oil.
33 Without oil CUC would be forced to shut down its generation, bringing the economy of the
34 CNMI to a halt, and endangering health and welfare as electricity-dependent operations ceased –
35 sewage treatment, water pumping, traffic lights and security lighting, air conditioning for the
36 elderly, infants, and other medically fragile persons, and equipment at the CNMI's Hospital and
37 health clinics. The principal reason for the shortage was the Government's failure to pay
38 millions of dollars of utility bills. The Government was in arrears about four months on its bills.
39 Only by eliminating restrictions on the Governor's power to reprogram funds to address this
40 issue was crisis averted.

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

3
4 83. The Executive Director was required to spend substantial time on a concentrated basis
5 interacting with high CNMI government officials as well as developing contingency plans for
6 the orderly shut-down of the CUC system.

7
8 84. Fortunately, the Administration was able to develop a multi-stage plan to enable the
9 payment of enough CNMI Government bills, and the reprogramming of CUC funds to forestall
10 disaster. The Government is still, however, about two months in arrears on its bills.

11
12 85. In order to facilitate this solution, the Governor issued a Declaration of Disaster Emergency
13 (June 8, 2010).

14
15 86. Development of this temporary financial rescue plan would not have been possible without
16 the dedicated, focused effort of a properly empowered Executive Director. Such financial
17 conditions may continue unless the Government, and other large CUC customers, can be brought
18 current, and remain current, on their bills. This may present a challenge for CUC, given the
19 stressed financial conditions of the Commonwealth. A properly empowered Executive Director
20 will be required to address this challenge.

21
22 87. On May 11, 2010, CUC submitted to EPA a draft organization evaluation and
23 reorganization plan. But on June 14, 2010, the EPA assessed CUC a \$140,000 penalty for
24 failing to submit timely such a plan. EPA has yet to approve a master plan for CUC. In a July
25 1, 2010, official letter EPA stated its belief that CUC still lacked the technical capability to put
26 together "adequate" submissions. Importantly, CUC requires a functioning management,
27 including a properly empowered Executive Director to forestall any such additional EPA
28 punitive action.

29
30 

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

32
33 88. There is no Legislative relief coming. For months CUC has repeatedly asked the
34 Legislature for such relief, including submission of draft legislation in July. The Legislature has
35 declined to respond. There is no alternative to providing this relief other than an order from the
36 Governor. Inaction will produce a disaster in which CUC is unable to provide its critical
37 community services. Directives # 9 and #10 were designed to avert this crisis. (The other
38 Directives, #1 through #8, are no longer relevant, and were discontinued.)

39
40 89. This Declaration is necessary to protect the health and safety of our children, our senior
41 citizens, businesses and all other CNMI residents and visitors.

1
2
3 □
4 **CONCLUSION AND ORDER**

5
6 Therefore, I hereby invoke my authority under Article III, § 10, of the Commonwealth
7 Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threat
8 facing the Commonwealth of the Northern Mariana Islands.

9
10 Exercise of the Constitutional and statutory authority invoked herein will be effectuated by the
11 issuance of Executive Directives setting forth the measures to be taken to address the State of
12 Disaster Emergency pursuant to 3 CMC § 5121(f), which states:

13
14 (f) In addition to any other powers conferred upon the Governor by law, the Governor
15 may, during a state of disaster emergency:

16
17 (1) Suspend the provisions of any regulatory statute prescribing the procedures
18 for conduct of the Commonwealth's business, or the orders, rules, or regulations
19 of any Commonwealth activity or agency, if strict compliance with the provision
20 of any such statute, order, rule or regulation would in any way prevent, hinder, or
21 delay necessary action in coping with the emergency;

22
23 (2) Utilize all available resources of the Commonwealth as reasonably necessary
24 to cope with the disaster emergency of the Commonwealth;

25
26 (3) Transfer the direction, personnel, or functions of the Commonwealth
27 departments and agencies or units thereof for the purpose of performing or
28 facilitating emergency services;

29
30 3 CMC § 5121(f)(1)-(3).

31
32 By today's disaster emergency declaration, I intend to enable CUC to continue to provide
33 necessary service to the people of the Commonwealth.

34
35 This Declaration of a State of Disaster Emergency shall take effect immediately and all
36 memoranda, directives and other measures taken in accordance with this Declaration shall
37 remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the
38 end of the thirty (30)-day period, notify the Presiding Officers of the Legislature that the state of
39 emergency has been lifted or has been extended for an additional period of thirty (30) days. 1
40 CMC § 7403(a); 3 CMC § 5121(c).

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

3
4
5 **DIRECTIVES**

6
7 I direct the following:

8
9 Directive 1: Deleted.

10
11 Directive 2: Deleted.

12
13 Directive 3: Deleted.

14
15 Directive 4: Deleted.

16
17 Directive 5: Deleted.

18
19 Directive 6: Deleted.

20
21 Directive 7: Deleted.

22
23 Directive 8: Deleted.

24
25 Directive 9: The Executive Director of CUC shall have all the powers of the CUC Board,
26 thereby enabling him to carry out all critical business of CUC, pending the earlier of either (1)
27 the confirmation and convening of an operating CUC Board, or (2) the termination of the
28 authority of this order. In particular, the Executive Director shall have full power and authority
29 to agree to swap CDA debt and related obligations for preferred stock and related features and
30 rights.

31
32 Directive 10: The following strike-out-formatted language of the quoted provisions of the
33 following statute regulating government employment is, as indicated, suspended immediately:

34
35 § 4532. Exemptions.

36
37 Persons other than citizens and permanent residents may be exempted from the
38 employment restriction in 3 CMC §4531 and employed within the following government
39 entities and positions, ~~on a case-by-case basis:~~

- 1 ~~(a) Department of Public Health. United States or Canadian board-certified physicians~~
2 ~~and dentists licensed to practice in the Commonwealth.~~
3 ~~(b) Department of Commerce. Temporary or part-time employees as needed for censuses~~
4 ~~and statistical surveys.~~
5 ~~(c) Government translators. Approved foreign national translators for: the Department of~~
6 ~~Labor, the Office of the Attorney General, the Office of the Public Defender, the~~
7 ~~Department of Public Safety, the Commonwealth Superior Court, the Commonwealth~~
8 ~~Supreme Court, and the Marianas Visitors Authority. The Attorney General shall~~
9 ~~establish guidelines for the approval of foreign national translators for the Executive~~
10 ~~Branch. The Supreme Court may establish guidelines for the approval of foreign national~~
11 ~~translators for the Judiciary.~~

12
13
14 3 CMC § 4532, as most recently amended by PL 17-1. (Strikeout is deliberately added) That is,
15 the following language is suspended: “the following”, “ on a case by case basis” and the
16 following listing:

- 17
18 “ (a) Department of Public Health. United States or Canadian board-certified physicians
19 and dentists licensed to practice in the Commonwealth.
20 “ (b) Department of Commerce. Temporary or part-time employees as needed for censuses
21 and statistical surveys.
22 “ (c) Government translators. Approved foreign national translators for: the Department of
23 Labor, the Office of the Attorney General, the Office of the Public Defender, the Department of
24 Public Safety, the Commonwealth Superior Court, the Commonwealth Supreme Court, and the
25 Marianas Visitors Authority.”

26
27 I further suspend and delete the "moratorium" of sec. 4601:

28
29 § 4601. Moratorium.

30
31 ~~There is hereby enacted a moratorium on the hiring of foreign national workers,~~
32 ~~as defined in 3 CMC §4911. This moratorium shall be read in conjunction with~~
33 ~~Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly~~
34 ~~construed and adhered to by all agencies and instrumentalities of the~~
35 ~~Commonwealth government.~~

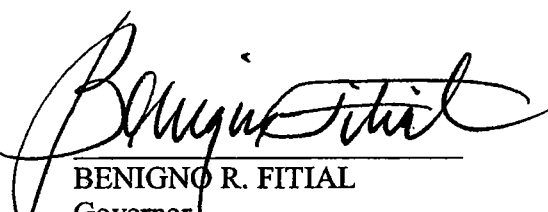
36
37 3 CMC § 4601 as most recently amended by PL 17-1. (Strikeout is deliberately added) That is,
38 the following language is suspended immediately: “There is hereby enacted a moratorium on the
39 hiring of foreign national workers, as defined in 3 CMC §4911. This moratorium shall be read in
40 conjunction with Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly

1 construed and adhered to by all agencies and instrumentalities of the Commonwealth
2 government.”

3
4 I hereby direct that the effect of the suspension of the indicated language shall be that CUC shall
5 have the complete power, without regard to citizenship or otherwise lawful immigration status,
6 to hire engineers, professional employees in technical or trade areas, power plant mechanics and
7 utility technicians, either directly or indirectly. I further direct that these professional employees
8 may include, but shall not be limited to, sanitarians, engineers, accountants, financial experts,
9 information technology specialists, mechanics, electricians, well-drillers, pipefitters, plumbers,
10 wastewater treatment facilities operators, laboratory specialists and other trades technicians and
11 their professional managers.

12
13 I further direct generally that the suspension of the language for specified agencies and the
14 specified positions shall not be held as a limitation as to unnamed agencies and instrumentalities,
15 but shall continue to permit other government entities to continue to fill needed positions,
16 particularly in the areas of health care, census and translation/interpretation. Additionally,
17 suspension of the term “on a case by case basis” shall permit government entities, including,
18 notably, CUC, to develop programs and procedures that avoid the delays inherent in creating or
19 obtaining case-by-case reviews and approvals. Finally, suspension of the moratorium is not
20 intended to impede the efforts of CNMI agencies and instrumentalities in lawfully identifying
21 and filling positions with qualified citizens and legal residents.

22
23
24 Done this 22nd day of July, 2010.

25
26
27
28
29
30 
31 BENIGNO R. FITIAL
Governor

0 EO 2010-08 CUC Dis Decl (22Jul10) Governor.wpd