

**TITLE 37
PUBLIC UTILITIES**

**DIVISION 1
ELECTRICAL POWER**

**Chapter 1
IPSECO**

- § 101. Legislative findings and purposes.
- § 102. Grant and delegation of authority; ratification; approval.
- § 103. Reconciliation with other laws.
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§ 101. Legislative findings and purposes.

- (a) In Senate Joint Resolutions No. 53, 126, and 205, the Olbiil Era Kelulau has declared that the generation and reliable transmission of electrical power sufficient to meet the needs of the Republic are matters of the highest national importance.
- (b) In order to achieve these objectives the Republic desires to enter into agreements with suppliers, financial institutions and other parties for the construction, operation and financing of a power station, fuel storage facility, transmission system, and related facilities (herein referred to as the “project”).
- (c) Senate Joint Resolution No. 205 expressed approval of a proposal for the Republic to enter into contracts with IPSECO International Power Systems, Ltd. (IPSECO) to implement the project and requested the President of the Republic to introduce such legislation as is necessary to implement this proposal.
- (d) The Olbiil Era Kelulau determines that chapter 5, of Title 40 of this Code does not authorize the President to enter into contracts relating to the project and that the President should be provided with specific statutory authority to enter into and implement such agreements as may be necessary for the project.
- (e) It is the intention of the Olbiil Era Kelulau that this legislation grants to the President all necessary authority to implement the project and to supersede any provision of existing legislation that is inconsistent herewith.

Source

RPPL 1-54 § 1, modified.

§ 102. Grant and delegation of authority; ratification; approval.

(a) The President is hereby empowered, for, on behalf of, and in the name of the Republic to enter into agreements for the construction, operation, and financing of the project, including but not limited to, agreements with IPSECO and with private or public lenders providing for the borrowing of money, the establishment of lines of credit and the furnishing of guarantees in relation thereto; provided, however, that the President shall not be authorized to enter into any contract for the construction of the project until he first announces to both houses of the Olbiil Era Kelulau his intention to provide for the immediate financing and construction of transmission lines to each of the 10 states of Babeldaob.

(b) The grant of authority in subsection (a) shall include the power to enter into any loan, guarantee or other agreement with any foreign government or foreign governmental entity as required in connection with the project, subject to the approval of both houses of the Olbiil Era Kelulau.

(c) The President may delegate to the Vice President the power to enter into such agreements as are authorized under this chapter.

Source

RPPL 1-54 § 2, as amended by RPPL 2-10 § 1(1), modified.

§ 103. Reconciliation with other laws.

Any agreement authorized hereunder may be executed and implemented irrespective of any provisions of sections 105 and 107 of the Palau District Code, Public Law No. 6-108, Public Law No. 7-5-4, Public Law No. 7-6-1, and RPPL No. 1-20 or any other existing laws, rules, or regulations which may be in conflict therewith.

Source

RPPL 1-54 § 3, as amended by RPPL 2-10 § 1(2), modified.

Cross-reference

The provisions of §§ 105 and 107 of the PDC, PL 7-5-4 and 7-6-1, and RPPL 1-16 and 1-20 are found in Title 40.

§ 104. [Repealed]

Source

RPPL 1-54 § 4; repealed by RPPL 4-13 § 15.

§ 105. [Repealed]

Source

RPPL 1-54 § 5, modified; repealed by RPPL 4-13 § 15.

Chapter 2
Utility Rates for Government Housing

§ 201. Government employees to pay for electricity.

§ 202. Selected exceptions.

§ 201. Government employees to pay for electricity.

Occupants of the houses owned or leased for employees of the Trust Territory Government or other governmental agencies in the Republic of Palau shall be charged at the standard residential rate per kilowatt-hour for any electrical power consumed.

Source

COM PL NO. 5-87 § 1, as amended by PL 7-1-25 § 1, modified.

Commission Comment

COM PL No. 5-87 was never codified in the 1980 Trust Territory Code due to the disbanding of the Congress of Micronesia. PL 7-1-25 was approved by the High Commissioner on April 2, 1980.

§ 202. Selected exceptions.

The provisions of section 201 shall not apply to any such occupant who is guaranteed free electrical power by virtue of

(a) his status as a member of the United States Civil Service, or

(b) any contract of employment which was in effect as of the effective date of this section; provided, however, that no contracts of employment entered into following the effective date hereof shall be inconsistent with the terms of this section.

Source

COM PL No. 5-87 § 2, modified.

Commission Comment

The High Commissioner signed COM PL NO. 5-87 into law on May 7, 1974.

**Chapter 3
Government Utility Charges**

§ 301. National and State government utility charges.

§ 302. P.U.C. charges.

§ 301. National and State government utility charges.

All entities of the national government and the state governments shall pay for all electrical and water utility services consumed, and shall not be given preferential treatment in the handling of their accounts by the agency of the national government responsible for the collection of such utility charges. This policy shall take effect on October 1, 1991.

Source

RPPL 3-40 § 9, modified.

Cross-reference

See 37 PNCA § 415(b).

§ 302. P.U.C. charges.

(a) The Palau Public Utilities Corporation (“P.U.C.”) shall provide copies of all billing statements for electric utility charges for each agency of the Executive Branch of the Republic of Palau directly to the Minister of Finance. Notwithstanding any other provision of law or regulation, the Minister of Finance shall: (1) promptly review such billing statements; (2) pay those electric utility charges he deems to be properly levied against the relevant agency on or before the due date set forth on the billing statement; and (3) make appropriate deductions from the budget for the relevant agency or budget line-item. The approval of the Minister or other management official otherwise responsible for approval of expenditures on behalf of an Executive Branch agency shall not be required for the Minister of Finance to make the payments as contemplated herein. Nothing in this section shall be construed or deemed to suspend or waive the requirement of 40 PNC § 401 that the Director of the Bureau of Program, Management and Budget shall certify that funds are available to make the payments of utility charges as contemplated herein.

Source

RPPL 5-34 § 40(a), modified.

Notes

All references to the Ministry of Administration are hereby amended to reference Ministry of Finance pursuant to RPPL 6-26 § 33, *see* 2 PNCA § 108.

**Chapter 4
Palau Public Utilities Corporation**

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§ 401. Short title.

This Act shall be known as and may be cited as, “The Utilities Consolidation Act”.

Source

RPPL 9-4 § 1, modified.

Notes

RPPL 9-4 § 4 reads: Amendment. RPPL No. 4-13, as amended, and codified in Chapter 4 of Title 37 of the Palau National Code, entitled, “Palau Utilities Corporation,” also known as the Palau Public Utilities Corporation, or “P.P.U.C.,” is hereby stricken and replaced with Section 5 of this Act.

§ 402. Definitions.

In this chapter:

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- (a) “Board” means the Board of Directors of the Palau Public Utilities Corporation.
- (b) “Charges” include all forms of revenue derived by the PPUC from users of electricity, water, waste water services, installation fees, service reconnection fees, equipment fees, demand rates, and any other similar services provided by PPUC to the public for a fee that generates revenue for PPUC.
- (c) “Cost of capital” means the cost to the corporation that consists of the cost of debt and the cost of equity, except for depreciation expenses of donated assets.
- (d) “Customer” or “user” means any natural person, individual, clan, association, business, partnership, company, joint venture, corporation, government entity, non-profit organization, or any other legally cognizable entity.
- (e) “Production costs” means the cost incurred by PPUC when producing a service.
- (f) “Public corporation” means an entity wholly-owned by the national government, doing business as a corporation formed under the laws of the Republic.
- (g) “Rates” means the dollar amounts charged for electricity, water, or waste water services to particular users or class of users according to the approved tariff schedules.

Source

RPPL 9-4 § 5[402], modified.

§ 403. Creation of corporation; general provisions.

- (a) There is created a public corporation, to be called the Palau Public Utilities Corporation (PPUC), which shall operate in the form and manner prescribed by this chapter.
- (b) PPUC is exempt from all national and state taxes or fees and from all state government regulations or control. However, nothing in this chapter shall exempt employees, suppliers, and independent contractors of PPUC from their tax obligations, and PPUC shall be liable for employees’ contributions to the Social Security System, Medical Savings Fund, and the Civil Service Pension Plan of the Republic in a manner provided by law.

Source

RPPL 9-4 § 5[403], modified.

§ 404. Board of directors; terms, vacancies, quorum and compensation.

(a) The affairs of the PPUC shall be directed, and its corporate powers exercised, by a Board of Directors.

(b) All powers vested in the PPUC shall be exercised by the Board, except to the extent that this chapter or the Board delegates powers to the Chief Executive Officer of the PPUC or other persons as expressly provided therein.

(c) Composition.

(1) The PPUC Board shall consist of seven (7) voting members that shall be called "Directors," which shall be appointed by the President with the advice and consent of the Senate.

(2) Four (4) Board member positions shall be held by individuals in possession of a bachelor degree and with at least two years experience in electric utilities management, water utility management, waste water management, finance, management, public administration, or law.

(3) A nationally elected public official or a nationally appointed public official shall not serve on the Board.

(4) An employee of PPUC shall not serve on the Board.

(5) Board members of PPUC shall not serve as employees of PPUC.

(d) Board member terms.

(1) Three (3) Board members shall serve a term of three (3) years at which time the Board member may be reappointed by the President with the advice and consent of the Senate.

(2) Two (2) Board members shall serve a term of five (5) years at which time the Board member may be reappointed by the President with the advice and consent of the Senate.

(3) Two (2) Board members shall serve a term of four (4) years at which [time] the Board member may be reappointed by the President with the advice and

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consent of the Senate.

(4) Board members may be reappointed for three (3) years at which Board members shall not serve longer than three (3) consecutive terms.

(e) Removal of a Board Member. A Board member may resign or be removed prior to the end of term by the President of the Republic for cause, including conflict of interest as defined in 33 PNC § 604, or where there is an abuse of power, or grievous dereliction of duty.

(f) The Board shall organize annually by electing one of its members as Chairman and another as Vice Chairman. The Chairman and Vice Chairman may be removed from office by a vote of not less than four (4) members of the Board. The Board shall designate a Secretary, who may or may not be a member of the Board itself, to keep the minutes and records of the Board.

(g) The Board shall promulgate a code of conduct and ethics that shall govern the conduct of members of the Board.

(h) Vacancies. Any member appointed to fill a vacancy on the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed by the President, with the advice and consent of the Senate, for the remainder of such term.

(i) Quorum. The Chairman or four (4) members of the Board may call meetings. Any four (4) members of the Board shall constitute a quorum. The concurrence of a majority of all Directors present at any meeting, and in no event, of less than a majority of a quorum shall be necessary for any official action taken by the Board unless otherwise provided herein. No vacancy in the membership of the Board shall impair the right of the quorum to exercise all of the rights and perform all of the duties of the Board.

(j) Members of the Board shall be entitled to fifty dollars (\$50) per board meeting, which shall be capped at five hundred dollars (\$500) a quarter, with compensation and per diem at established national government rates when traveling on the business of the PPUC.

Source

RPPL 9-4 § 5[404], modified.

Notes

The bracketed [time] in subsection (d)(3) added by the editor as complying with likely intention of Legislation.

§ 405. Public meetings and official documents.

General and annual meetings of the Board shall be open to the public and official documents shall be available for public inspection, including employment contracts.

Source
RPPL 9-4 § 5[405].

§ 406. Chief Executive Officer.

(a) The Board shall appoint one (1) person to be the Chief Executive Officer of PPUC and to serve as a non-voting member of the Board. The Board shall use its best efforts to appoint as Chief Executive Officer a person with appropriate training, broad experience and demonstrated ability in the operational, financial, personnel, and other aspects of managing an electricity, water and waste water services company, or similar installation.

(b) The Board shall fix the compensation of the Chief Executive Officer and said compensation shall be pursuant to a written contract of employment. The Chief Executive Officer serves at the will of the Board.

(c) The Chief Executive Officer shall have, in accordance with the oversight of and policies established by the Board, charge and control of the operation and maintenance of the facilities of the PPUC, and of construction of any additions, modifications in or replacement of any part of such PPUC facilities. The powers of the Chief Executive Officer shall include:

- (1) To ensure that all rules and regulations of the PPUC are enforced;
- (2) To attend, unless excused by the Board, all meetings of the Board and submit reports on the affairs of the PPUC as required by the Board;
- (3) To keep the Board advised on the needs of the PPUC and to approve demands for payments of obligations within the purposes and amounts budgeted by the Board;
- (4) To prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities operated by the PPUC;
- (5) To select, hire and terminate the employees of the PPUC, including to

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contract for professional, legal, accounting, technical and advisory services;

(6) To plan, organize, and control the services of such employees in the exercise of the powers of the PPUC under the general direction of the Board and the policies established by the Board;

(7) To cause to be compiled and published, within one hundred and twenty (120) days after the end of each fiscal year, a financial statement showing the results of operations for the preceding fiscal year and the financial status of the PPUC on the last day thereof. The publication shall be made in the manner provided by the Board and shall be sent to both houses of the Olbiil Era Kelulau and the President of the Republic; and

(8) To perform such other and additional duties as the Board may require.

Source
RPPL 9-4 § 5[406].

§ 407. Review of contracts.

The Chief Executive Officer and the Board shall ensure that all legal agreements and contracts are reviewed and approved as to form and legality by an attorney with responsibility for assisting the PPUC or by the Attorney General.

Source
RPPL 9-4 § 5[407].

§ 408. Review of major business negotiations.

Whenever PPUC enters into business negotiations involving the transfer of operating or managerial control to a party other than the PPUC, it shall notify the President of the Republic of Palau and the presiding officers of the Olbiil Era Kelulau in writing of these negotiations, and secure prior approval of the President and the Olbiil Era Kelulau.

Source
RPPL 9-4 § 5[408].

§ 409. Fiscal authority of corporation; audits.

- (a) PPUC shall establish and maintain records and accounts of all of its financial transactions; and shall have full charge of its financial affairs.
- (b) The Public Auditor shall monitor the financial affairs of PPUC, comment on its annual financial statement as appropriate, and review its audits. The Public Auditor may, if he deems it necessary or appropriate, investigate the financial affairs of PPUC, compelling disclosure of all operations, books, records, procedures, and transactions of PPUC. The Public Auditor shall report his findings concerning PPUC to the President and the Olbiil Era Kelulau.

Source
RPPL 9-4 § 5[409].

§ 410. General Corporate Powers.

- (a) The PPUC shall have the power to do all things necessary or convenient to be done in connection with or incidental to the performance of the functions and all things related to the performance of its functions, including the following:
- (1) to have succession and to sue and be sued in its corporate name;
 - (2) to purchase, operate, use and dispose of in any lawful manner, any type of property, whether real, personal, or mixed; and, pursuant to Article XIII, Section 7 of the Constitution, PPUC may request that the President exercise the Eminent Domain power of the National Government to expropriate private land for a public purpose of PPUC;
 - (3) to enter into contracts; provided that employees earning more than forty thousand dollars (\$40,000) a year shall be hired on a contractual basis with performance benchmarks for a maximum of two years;
 - (4) to adopt and use a corporate seal;
 - (5) to adopt, amend, or repeal its bylaws;
 - (6) to obtain the services of suppliers, employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as it deems appropriate;

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however, no health insurance shall be provided to PPUC employees, other than Palau Health insurance. There shall be no prohibition of private health insurance for employees acquiring such health insurance at their own expense;

(7) to investigate, research, and implement where feasible and practicable the application of appropriate renewable energy resources, including solar power, tidal power and wind generated power, and other energy sources for electricity, water and waste water services; and

(8) to carry out any other such duties or responsibilities necessary to carry out the purposes of this chapter.

Source

RPPL 9-4 § 5[410], modified.

§ 411. Powers and responsibilities of PPUC.

(a) PPUC shall be responsible for the electricity operations of the Republic, which shall include the following powers and responsibilities:

(1) To generate, acquire, exchange, transport, distribute, market, and otherwise supply electricity;

(2) To undertake, maintain and operate any works, system, facilities apparatus, or equipment required for any purpose referred to in subparagraph (1);

(3) To utilize its expertise and resources to provide consultative, advisory or other services that will earn sufficient revenue in order to fund its operating costs, production costs, and full recovery of the cost of its capital;

(4) To develop and utilize any technology, software, or other intellectual property that relates to a function referred to in this Section;

(5) To manufacture and market any product that relates to a function referred to in subparagraph (1), (2), or (4);

(6) To undertake actions, including policies, procedures, standards, codes of practice and practice directions relating to any work intended to form part of, or to be directly or indirectly connected to any systems or works of the PPUC in

providing electricity services, that will earn sufficient revenue in order to fund its operating costs, production costs, and full recovery of the cost of its capital;

(7) To adopt electricity service regulations to set electrical standards for the power system and any renewable energy systems; and

(8) To refuse any substandard connection that does not meet the requirements of subsection (7) above.

(9) PPUC shall establish and implement a structure of rates for its electrical services and facilities calculated to ensure that adequate and equitable charges are imposed for its services.

(b) PPUC shall be responsible for the water and waste water operations of the Republic, which shall include the following powers and responsibilities:

(1) To acquire, store, treat, distribute, market, and otherwise supply water for any purpose;

(2) To collect, store, treat, market, and dispose of wastewater;

(3) To undertake, maintain, and operate any works, system, facilities, apparatus or equipment required for any purpose referred to in subparagraph (1) or (2);

(4) To use its expertise and resources to provide consultative, advisory, or other services that will earn sufficient revenue in order to fund its operating costs, production costs, and full recovery of the cost of its capital;

(5) To develop and turn to account any technology, software, or other intellectual property that relates to a function referred to in subparagraph (1), (2), or (3);

(6) To manufacture, market, and sell, any product to its consumers that relates to a function referred to in subparagraph (1), (2), or (3);

(7) To undertake actions, including policies, procedures, standards, codes of practice and practice directions relating to any work intended to form part of, or to be directly or indirectly connected to any systems or works of the PPUC in providing water and waste water services that will earn sufficient revenue in order to fund its operating costs, production costs, and full recovery of the cost of its

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capital;

(8) To exercise the powers provided by the Underground Utility Damage Prevention Act (37 PNC §§ 501-511) as operator of the water and waste water systems, and exercise the rights and powers vested in the Director of Public Works under the Sewer Use Act (34 PNC Chapter 12);

(9) PPUC shall establish and implement a structure of rates for its water and waste water services and facilities calculated to ensure that adequate and equitable charges are imposed for its services;

(10) To comply with all regulatory requirements set forth by the Environmental Quality Protection Board in accordance with the provisions of the National Water Resources Management Plan and existing laws and regulations, including those regarding water abstraction, water quality, and water level measurements; and

(11) To take regular periodic measurements of the water quantity at each source from which it abstracts water, and shall share all measurements of water quantity with the Environmental Quality Protection Board to enable the Environmental Quality Protection Board to monitor and permit water abstraction.

Source

RPPL 9-4 § 5[411], modified. Subsection (b) is amended by RPPL 9-19 § 5, modified.

§ 412. Rates; rate making process.

(a) The rates set by PPUC for the electricity operations of the Republic that are in effect on the effective date of this act shall be the rates of PPUC on the effective date of this Acts.

(b) The rates set by the Palau Water and Sewer Corporation for the water and waste water operations of the Republic that are in effect on the effective date of this Act shall be the rates of PPUC on the effective date of this Act in Arai and Koror State. All other outlying states' water rates shall be rates from 2011 until such time as determined by PPUC, that is appropriate for subsection (d) to apply in the determination of future rates for outlying states; provided that the 2011 rates shall remain in effect for the outlying states for not less than two years from the effective date of this act.

(c) Future electricity rates shall be designed on the equitable basis of meeting PPUC's

operational costs and recovering the cost of capital of PPUC.

(d) Future water rates shall be assessed on the basis of quality and volume of water used. Waste water rates shall be assessed on the basis of usage and the manner of such usage. Customers may be classified for the purpose of assessing water and waste water rates in accordance with this policy. All future rates shall be designed on the basis of achieving full cost recovery, meeting PPUC's operational costs, and recovering the cost of capital of PPUC.

(e) The Board may adopt rates distinguishing between commercial and residential users, and may set preferential rates for individuals or households with low demand or low income.

(f) Rate making process. Prior to the adoption of new rates or a new rate structure, PPUC shall provide not less than thirty (30) calendar days notice of the proposed action by posting written notice at the President's Office, at the Judiciary Building, all state offices and public bulletin boards on businesses, at least once a week in a newspaper with national circulation, and announced on the radio at least four (4) times daily on ten (10) consecutive business days, within the first twenty-five days after it is posted.

(g) The notice required by subsection [(f)] shall include the following:

(1) The legal authority for the rate increase.

(2) A short statement that sets forth the reasons for the rate increase.

(3) The time and place of the public hearing, as required in subsection (h).

(4) Where, when, and how interested persons may present their views on the rate increase.

(h) The Board shall conduct a public hearing at which the views of the public may be heard.

(i) Only after having complied with the provisions of this Section may the PPUC Board adopt the proposed tariff schedule. All rates and charges must be in the tariff schedule, and shall be filed at the President's office. The effective date of the rates shall be the day the tariff schedule is filed at the President's office. The new tariff schedule shall also be

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publicized and be made available to the general public.

Source

RPPL 9-4 § 5[412], modified.

Notes

The bracketed [(f)] in subsection (g) above read “(e)” in the original legislation which has been determined by the Code Commission as a typographical error that was meant to read “(g)”.

§ 413. PPUC funds.

- (a) PPUC shall be responsible for the collection of all payments of electric, water and waste water service bills and related fees and charges of PPUC; such funds shall be deposited to one or more bank accounts established at the direction of the PPUC Board of Directors.
- (b) Funds which have been appropriated by the National Government for PPUC operations subsidies, for capital improvements, or for other purposes shall be deposited to the PPUC bank account(s) by the National Treasury immediately following each quarterly allotment by the Bureau of Program, Budget and Management.
- (c) U.S. Federal or other grants received in the name of the National Government on behalf of PPUC shall be the responsibility of PPUC; therefore, PPUC will be responsible for preparation of all federal reports and forms required to receive federal grant cash and account for federal expenditures and obligations. Funds received by the National Government for such grants shall be transferred to the PPUC bank account(s) immediately upon their receipt. The PPUC shall have authority to apply for and accept financial assistance from any nation or organization and deposit such funds directly to its bank account(s).
- (d) The Board and the Chief Executive Officer shall have authority to expend all such monies deposited to PPUC bank accounts, including signature authority on checking and savings accounts; the National Treasury shall not have authority to withdraw funds from PPUC accounts.
- (e) The Board and the Chief Executive Officer shall be responsible for insuring that all PPUC purchasing is done in accordance with generally accepted management practices and in accordance with U.S. federal regulations in the case of federal grants; that all funds are properly accounted for and expended only for necessary and proper expenses of the PPUC and, as applicable, in compliance with federal grant regulations and conditions.

(f) Any part of any Memorandum of Understanding between PPUC and the National Government which conflicts with this section shall be void.

Source

RPPL 9-4 § 5[413], modified.

§ 414. Cross-subsidization prohibited.

(a) Water and waste water operations shall be treated as a separate business segment from the electricity operations of PPUC. PPUC shall adopt an organizational structure delineating a chain of management for water and waste water operations that is distinctively separate from electricity operations. Shared administrative costs and expertise shall be allocated to the two separate business segments based on the United States standard of cost accounting applicable to utilities.

(b) PPUC shall maintain two separate accounts within its general account for:

- (1) the electrical generation operations of PPUC; and
- (2) the water and waste water operations of PPUC.

(c) The electricity generation operation of PPUC shall not be utilized to subsidize the water and waste water operations of PPUC. The water and waste water operations of PPUC shall not be utilized to subsidize the electrical generation operations of PPUC.

(d) Any surplus revenue generated by:

- (1) the electrical generation operations of PPUC shall remain in the account created for the electrical generation operations.
- (2) the water and waste water operations of PPUC shall remain in the account created for the water and waste water operations.
- (3) However, the Board may approve loan agreements specifying terms of repayment with interest for loans of surplus funds generated by either the water and waste water operations or electricity operation to the other operation.

(e) Any grants from an outside entity that are provided to PPUC for the electricity generation operations shall be placed into the account for the electricity generation

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operations. Any grants from an outside entity that are provided to PPUC for the water and waste water operations shall be placed into the account for the water and waste water operations.

(f) The electricity generation operations shall be responsible for its own operating costs and recovering the cost of its capital. The water and waste water operations shall be responsible for its own operating costs and recovering the cost of its capital.

(g) Nothing in this section shall be interpreted to prohibit the development of shared services between the electricity generation operations and the water and waste water operations that will result in lower costs to the consumer or increased revenue to the Corporation.

Source

RPPL 9-4 § 5[414], modified.

§ 415. Prohibition of free or discounted services.

(a) No officer or employee of the Palau Public Utilities Corporation may receive free utility service, or any discount for such service that is not generally available to customers of PPUC.

(b) The national government and state government shall not receive free or discounted services, or any other favorable treatment, unless such free or discounted service is generally available to the customers of PPUC. Notwithstanding any other law, the national government and state government shall be charged interest for the failure to pay the bills of PPUC, including interest charges so defined in the tariff schedule of PPUC.

Source

RPPL 9-4 § 5[415].

Cross-reference

For free or discounted services to national government and state government, see 37 PNCA § 301.

§ 416. Tampering; unauthorized connections; penalties.

(a) For the purposes of this section, the term “pollutant” means any liquid, gaseous, or solid substance that contaminates the water so as to change the physical or chemical condition of it in such a manner as to make the water unclean, noxious, offensive, or impure, or so as to be detrimental to the health, safety, or welfare of persons using,

consuming, or residing in the vicinity of the water.

(b) Any person who knowingly and willfully:

(1) discharges or introduces any pollutant into a water system of the PPUC or any water source used by the PPUC for the water it supplies, or who causes or permits another person to so discharge or introduce a pollutant; or

(2) tampers, interferes with or damages any pipes, fittings or appliances forming part of a water supply or waste water system so as to interfere with the supply or service, or who causes or permits another person to so tamper, interfere or damage; then

(3) such person shall be guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned for a period of not more than one (1) year, or fined not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) per day of violation, or both.

(c) Any person who knowingly and willfully tampers with an electrical generator, power line, or other infrastructure that is owned by PPUC shall be guilty of a misdemeanor and imprisoned for a period of not more than [five (5) years], or fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) per day of violation, or both.

(d) Any person who makes an unauthorized connection to a PPUC electrical system or water or waste water system operated by the PPUC, or who causes any other person to make an unauthorized connection to any electrical, water or waste water system operated by the PPUC, shall be guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned for a period of not more than one (1) year, or fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) per day of violation, or both.

(e) Any person who negligently commits any of the offenses set forth in subsection (b) of this section, or who knowingly and willfully violates any regulation, rule, permit, order, standard or code of practice adopted and applying hereunder, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) per day of violation.

(f) Any person who commits any offense which involves the unlawful taking of water and waste water services, or electrical power from a system operated by the PPUC shall

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be liable to pay for the electricity, water or waste water service unlawfully taken, as assessed by the PPUC, at a penalty rate according to the tariff schedule.

Source

RPPL 9-4 § 5[416], modified.

Notes

The bracketed [five (5) years] in subsection (c), period of imprisonment for a misdemeanor crime is inconsistent with 17 PNCA § 101. *See* 17 PNCA § 101.

§ 417. Transition of authority of water and waste water operations to PPUC.

(a) On the effective date of this Act all employees that are currently employed by the Bureau of Public Works, the Rural Sanitation, and the Palau Water and Sewer Corporation shall be transferred to PPUC. All persons that are employed by or transferred to PPUC shall be employed in accordance with the personnel manual approved by the Board of the PPUC, and shall be subject to the direction and control of the Chief Executive Officer.

(b) All employees who were employed by the Palau National Government or the Palau Water and Sewer Corporation prior to the commencement of this Act and who were engaged in the performance of any functions to be undertaken by the PPUC, shall be transferred to the PPUC with benefits and terms no less favorable than those they were entitled to immediately prior to the commencement of this Act.

(c) On the effective date of this Act PPUC shall receive and assume ownership of all working capital, cash, accounts receivable, books, records, files, maps, and other rights, obligations, accounts payable, assets, agreements and privileges pertaining to the property owned, used or derived by the Palau National Government or the Palau Water and Sewer Corporation for the provision of water and waste water services prior to the commencement of this Act.

(d) On the effective date of this Act all water and waste water facilities, installations, premises, equipment, and related property of the Palau National Government or the Palau Water and Sewer Corporation that has been used for or in connection with the operation of water and waste water systems and the provision of water and waste water services prior to the commencement of this Act shall be transferred to PPUC.

(e) Subject to subsection (f), the liabilities of the Palau National Government and the Palau Water and Sewer Corporation shall not transfer to PPUC. Subject to subsection (f), all liabilities of the Palau National Government and the Palau Water and Sewer

Corporation that are related to the water and waste water operations of the Republic shall be deemed to be debts of the national government.

(f) As set forth in the loan agreement with the Asian Development Bank, the government is required to provide a grant of up to two million six hundred thousand dollars (\$2,600,000) and a loan of up to six million dollars (\$6,000,000) to PPUC as a part of the financing arrangement in budgetary support of the transfer of the water and waste water operations to an independent entity. Any amount of funds provided as a loan to PPUC that is provided to PPUC pursuant to this subsection and the loan agreements shall be the sole liability that transfers to PPUC following the effective date of this Act.

(g) The President shall appoint a Transition Committee to oversee the transition and transfer process set forth in this Section. The Committee shall include one (1) person from the Bureau of Public Works, one person (1) from the Palau Water and Sewer Corporation, one (1) person from Palau Public Utilities Corporation, and one (1) person with experience in inventory and the transfer of assets and shall execute a memorandum of understanding to document the transfer of assets, liabilities, and employees from the Palau Water and Sewer Corporation, the water and waste water operations of the Bureau of Public Works, and the Rural Sanitation Office to PPUC.

Source
RPPL 9-4 § 6, modified.

§ 418. Severability.

If any provision of this chapter is found to be invalid or unconstitutional by a court of competent jurisdiction, then the offending part or portions may be severed from the rest of the bill and the remaining parts or portions shall continue in full force and effect.

Source
RPPL 9-4 § 7, modified.

UNDERGROUND UTILITY DAMAGE PREVENTION ACT 37 PNCA § 501

Chapter 5 Underground Utility Damage Prevention Act

- § 501. Definitions.
- § 502. Excavation and demolition permits.
- § 503. Prohibition.
- § 504. Notice of intent to excavate or demolish.
- § 505. Response to notice of intent to excavate or demolish.
- § 506. Emergency excavation or demolition.
- § 507. Precautions to avoid damage.
- § 508. Excavation or demolition damage.
- § 509. Damages; cost of repairing.
- § 510. Civil penalties.
- § 511. Financial responsibility for relocating underground utilities on private property.

§ 501. Definitions.

As used in this chapter:

- (a) “Damage” means substantial weakening, penetration or destruction.
- (b) “Demolish” or “demolition” means any operation by which a structure or mass material is wrecked, razed, rendered, moved or removed by means of any tools, equipment or discharge of explosives.
- (c) “Excavate” or “excavation” means an operation for the purpose of the movement or removal of earth, rock or other materials in or on the ground or under the water, including underwater dredging, by use of hand operated or mechanized equipment or by discharge of explosives, including auguring, backfilling, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling, but does not include the tilling of soil to a depth of less than eighteen (18) inches.
- (d) “Mechanized equipment” means equipment operated by means of mechanized power, including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plow-in cable or pipe.
- (e) “Operator” means the agencies responsible for operating the public utilities of the Republic of Palau, specifically the Ministry of Resources and Development of the

Government of the Republic of Palau, the Palau Public Utilities Corporation, and the Palau National Communications Corporation.

(f) “Person” means any individual, corporation, partnership, association or any other entity organized under the laws of the Republic of Palau.

(g) “Utility” means any line, system, pole, substation, transformer, or facility used for producing, storing, conveying, transmitting or distributing communications, electricity, water or sewage; or any protective coating, housing or other protective device associated therewith.

(h) “Working day” means every day except Saturday, Sunday, and national holidays.

(i) “Underground utility” means any utility located below the surface of the ground, or any marine cable or other utility located underwater.

Source

RPPL 5-39 § 2, modified.

§ 502. Excavation and demolition permits.

A permit issued pursuant to law, authorizing excavation or demolition operations, shall not relieve a person from the responsibility of complying with the provisions of this chapter.

Source

RPPL 5-39 § 3, modified.

§ 503. Prohibition.

Except as otherwise provided in this chapter, no person may demolish a building or excavate: (1) in a street or highway or within five feet of the edge of any street or highway; (2) in a public space; (3) on a private easement of any operator; (4) within 5 feet of a utility installed on the premises of a customer served by such utility; (5) within the territorial sea or internal waters of the Republic; without having first ascertained from the appropriate operator, in the manner provided for in this chapter, the location of all known underground utilities that would be affected by the proposed excavation or demolition.

Source

RPPL 5-39 § 4, modified.

UNDERGROUND UTILITY DAMAGE PREVENTION ACT 37 PNCA § 505

§ 504. Notice of intent to excavate or demolish.

(a) Except as provided in § 506, before commencing any excavation or demolition operation covered by this chapter, each person responsible for the excavation or demolition shall serve written notice of intent to excavate or demolish on all operators. The written notice shall be served by personal service at least eight (8) but not more than twelve (12) full working days in advance of the proposed excavation or demolition. The written notice shall contain the name, address and telephone number of the person filing the notice of intent and, if different, the person responsible for the excavation or demolition operation to be conducted, the exact location of the proposed excavation or demolition, and whether explosives are to be used.

(b) Within ten (10) days of the effective date of this chapter, the operators shall jointly design, and make available in their respective offices, a standard form for persons to provide the written notice required by this section.

Source

RPPL 5-39 § 5, modified.

§ 505. Response to notice of intent to excavate or demolish.

(a) Each operator notified in accordance with § 504 shall, not less than three (3) working days in advance of the proposed excavation or demolition (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the operator), supply, by use of maps when appropriate, the following information to the person responsible for the excavation or demolition:

- (1) The approximate location and description of all of its underground utilities which may be damaged as a result of the excavation or demolition.
- (2) The location and description of all utility markers indicating the approximate location of the underground utilities.
- (3) Adequate temporary markings indicating the approximate location of underground utilities in locations where permanent utility markers do not exist.
- (4) Any other information that would assist that person in locating and thereby avoiding damage to the underground utilities.

(b) At the written request of the person responsible for the excavation or demolition, the appropriate operator shall assign a representative to visit the excavation or demolition site to assist the person in accurately identifying the location of the utility.

(c) If, in response to a notice that complies with § 504, the appropriate operator fails to provide the information required by this section within the time limits set forth in this section, or is unable to provide the approximate location and description of all of its underground utilities which may be damaged as a result of the excavation or demolition, the person responsible for the excavation or demolition may proceed with his proposed project, and the operator shall bear the full cost of repairing any underground utility that is damaged as result of its failure or inability to provide such information.

Source

RPPL 5-39 § 6, modified.

§ 506. Emergency excavation or demolition.

Compliance with the notice requirement of § 504 is not required of any person responsible for emergency excavation or demolition to ameliorate imminent danger to life, health or property; provided, that those persons shall give, as soon as practicable, oral notice of the emergency excavation or demolition to each operator and shall request emergency assistance from each operator in locating and providing immediate protection to its underground utilities.

Source

RPPL 5-39 § 7, modified.

§ 507. Precautions to avoid damage.

Each person responsible for any excavation or demolition covered by this chapter shall, with respect to any utility, the location of which the operator has provided to the person pursuant to this chapter:

(a) Plan the excavation or demolition so as to avoid damage to or minimize interference with any utility in or near the construction area.

(b) Maintain a clearance between any utility and the cutting edge or point of any mechanized equipment, taking into account the known limit of controlling such cutting edge or point, as may be reasonably necessary to avoid damage to the utility.

UNDERGROUND UTILITY DAMAGE PREVENTION ACT 37 PNCA § 510

(c) Provide support for any utility in or near the construction area, including during backfill operations, as may be reasonable for the protection of the utility.

Source

RPPL 5-39 § 8, modified.

§ 508. Excavation or demolition damage.

Each person responsible for any excavation or demolition that results in any damage to a utility shall, within four (4) hours of discovering that damage, notify the operator of the utility of the location and nature of the damage and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the utility.

Source

RPPL 5-39 § 9, modified.

§ 509. Damages; cost of repairing.

Any person who, due to his negligence or his failure to comply with any provision of this chapter, damages a utility shall pay for all costs incurred by the appropriate operator to restore the utility to its original condition plus compensatory damages to the operator for loss of any revenue.

Source

RPPL 5-39 § 10, modified.

§ 510. Civil penalties.

In addition to the costs of repair, any person who violates any provision of this chapter shall be subject to a civil penalty, not to exceed five thousand dollars (\$5,000), for each violation. Actions to recover the penalty provided for in this section may be brought by the Attorney General at the request of the appropriate operator, or by the operator itself. All penalties recovered in any such action shall be paid into the appropriate operator's account. This chapter does not affect any civil remedies for personal injury or property damage.

Source

RPPL 5-39 § 11, modified.

§ 511. Financial responsibility for relocating underground utilities on private property.

Except as otherwise expressly provided for by contract, where a proposed construction project by a private property owner requires the relocation of an underground utility located on the owner's property, the operator owning the utility shall bear the full cost of relocating the utility to a location that will not interfere with the construction project.

Source
RPPL 5-39 § 12.

**Chapter 6
Palau Net Metering Act of 2009**

- § 601. Short title.
- § 602. Definitions.
- § 603. Metering.
- § 604. Implementation of this chapter by PPUC.
- § 605. Total capacity.
- § 606. Regulations.

§ 601. Short title.

This chapter shall be known as the “Palau Net Metering Act of 2009.”

Source

RPPL 8-39 § 3, modified.

Notes

All references to “P.P.U.C.” in this chapter are hereby amended to read “PPUC” as per RPPL 9-4 § 5.

§ 602. Definitions.

As used in this chapter:

(a) “Average fuel cost for energy delivery” is defined as the average cost of the fuel and lubricating oil used to generate one kilowatt-hour of electricity during the net metering time period. The average cost is determined by dividing the total cost of fuel and lubricating oil used by the PPUC during the net metering time period by the total kilowatt-hours sold to all customers during that same net metering time period. For customers who are classified as net metering customers, but who are not connected for net metering measuring for a full twelve (12) month net metering time period, the average fuel cost for energy delivery for those customers shall be that of the twelve (12) month net metering time period within which the partial year of connection falls.

(b) “Eligible customer-generator” means a residential, commercial, government, or industrial customer of the PPUC, who uses renewable energy sources for the generation of electricity, is connected to the PPUC grid, and may have the capability to send electricity into the PPUC grid.

(c) “Net-metering amount” is defined as the difference between the electrical energy flowing from the PPUC grid into a customer’s premises and the electrical energy flowing from the customer’s premises into the PPUC grid over a twelve (12) month net metering time period. Depending upon the conditions that prevail at the premises, the net metering amount may represent either: a net energy flow from the grid to the premises, in which case a charge is made to the customer for that energy; or a net energy flow from the premises to the grid, in which case a credit is provided to the customer for that energy.

(d) “Net energy metering” means measuring the difference between the electricity supplied to a customer through the electricity grid and the electricity generated by an eligible customer-generator that is fed back to the electric grid over a twelve (12) month period. The net energy metering measurement shall be accomplished using a single meter or a set of meters capable of registering the flow of electricity both into and out of the electricity grid from the customer’s premises.

(e) “Net metering system” means a facility for the generation of electricity that-

- (1) is connected to the PPUC electric distribution system;
- (2) is intended primarily to offset the customer’s own electricity requirements;
- (3) is located on the premises owned or operated by the customer;
- (4) employs a renewable energy source as defined in subsection (g) of this section; and
- (5) is smaller than five (5) kW maximum generation for a residential installation, except where PPUC specially approves a larger size for connection to the net metering grid; however,
- (6) for a commercial or industrial installation, the facility may not generate in excess of the maximum kilowatt demand for the site unless a larger size is specially approved by the PPUC for connection.

(f) “Net metering time period” is defined as the designated twelve (12) month period during which the PPUC measures the net amount of kilowatt-hours to be billed or credited at a customer’s premises. The time period is to be designated by the PPUC and shall be the same for all customers.

(g) “Renewable energy source” is specifically defined within this chapter to include

energy derived from solar power, water power, or wind power. Any other forms of renewable energy may be permitted by the PPUC on a case by case basis upon application by a customer, through Executive Order, or through amendment of this chapter.

Source

RPPL 8-39 § 4, modified.

§ 603. Metering.

Consistent with the other provisions of this chapter, electric energy measurement for net metering systems shall be calculated in the following manner:

- (a) The PPUC shall measure the net electricity produced or consumed during the customer's billing period using either multiple meters or a single meter designed for net metering use.
- (b) Where the electricity supplied by the electric company exceeds the electricity generated by the customer's renewable energy system that is fed into the electric distribution system during the billing period, then the customer shall be billed for the net electricity supplied by the electric company, in accordance with normal metering practices.
- (c) Where electricity generated by the customer exceeds the electricity supplied by the electric company, the customer shall be credited for the excess kilowatt-hours generated at no less than fifty percent (50%) of the tariff applicable during the billing period with this kilowatt-hour credit shown on the following month's bill as an offset for kilowatt-hours supplied from the grid for that month.

Source

RPPL 8-39 § 5, modified.

§ 604. Implementation of this chapter by PPUC.

The PPUC:

- (a) shall develop a standard contract providing for net energy metering and shall, upon request, make this contract available to eligible customer-generators;
- (b) shall prepare appropriate technical standards for grid connection of renewable energy

systems, and inspect and provide a license for those renewable energy installations that meet the technical standards developed by [the] PPUC and the other provisions of this [chapter]. Issuance of a license shall be solely to show that the PPUC has approved the interconnection of the customer's renewable energy system and the PPUC grid and shall not be interpreted to impose liability or approval by the PPUC for any part of the renewable energy system, its design, or its method of implementation. The technical standards imposed will be based solely on those necessary to ensure the safety of PPUC personnel and for the maintenance of PPUC power quality. Standards and technical requirements shall be consistent with existing technical practices for similar types of installations in the United States, Australia, or the European Union.

(1) A licensee shall inform the PPUC of any proposed technical changes to the renewable energy system that affects either the maximum power output or the components that provide the interconnection between the renewable energy system and the PPUC grid and will, under the licensing agreement, not make those changes without PPUC approval.

(2) The failure of a licensee to promptly inform the PPUC in writing of any technical changes to the renewable energy system that affects any of the above may, at the PPUC discretion, result in a fine of not more than two hundred dollars (\$200).

(c) shall, at its own-expense, make available to each of its eligible customer generators who have installed a net metering system, the meter (or set of meters) that is needed to determine the net flow of electricity, both into and out of the electricity grid;

(d) shall, at its own expense, annually inspect grid-connected renewable energy installations to ensure that unauthorized changes have not been made and to ensure that the grid interconnection arrangements remain adequate for maintaining safety and power quality.

(e) shall not charge the customer any additional standby, capacity, interconnection, or other fee or charge that is greater than such fees charged to all members of that customer class; and

(f) may, at its own expense and with the written consent of the customer, install one or more additional meters to monitor the flow of electricity in each direction. The additional metering shall be used only to provide the information necessary to accurately bill or credit the customer-generator or to collect renewable energy generating system performance information for research purposes.

Source

RPPL 8-39 § 6, modified.

Notes

The bracketed [the] in subsection (b) does not appear in the original legislation. The bracketed [chapter] in subsection (b) replaced the wording “legislation” per code commission.

§ 605. Total capacity.

The PPUC may establish a maximum limit for the installed capacity of renewable energy systems connected to the PPUC grid for each technology of renewable energy system. The limit set shall be reviewed annually and adjusted in accordance with changes in renewable energy technologies and in accordance with the current operating conditions of the PPUC.

Source

RPPL 8-39 § 7, modified.

§ 606. Regulations.

Within ninety (90) days of the effective date of this chapter, the Board of the PPUC shall promulgate rules and regulations necessary or appropriate to effectuate the provisions of this chapter. Such regulations shall be exempt from the notice and hearing requirements set forth in 37 PNC § 413(a), and shall be promulgated in accordance with the Administrative Procedures Act, 6 PNC Chapter 1. Such rules and regulations shall have the force and effect of law.

Source

RPPL 8-39 § 8, modified.

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PUBLIC UTILITIES