

A BILL FOR AN ACT

To further amend title 21 of the Code of the Federated States of Micronesia, as amended, by amending chapter 2 thereof and by enacting a new chapter 3 to establish the National Government's regulatory power over Telecommunication Operation in the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Title 21 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a
3 new chapter 3 to establish the national government's powers and
4 responsibilities over telecommunication operation.

5 Section 2. Title 21 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by enacting a
7 new section 301 to read as follows:

8 "Section 301. Purpose. This chapter is to ensure that
9 telecommunication services in the Federated States of
10 Micronesia are provided in an effective, efficient,
11 transparent, and financially accountable manner. The
12 Act requires the FSM Telecommunication Corporation ("the
13 Corporation") to operate on the principles of
14 transparency in its business operations, procurement,
15 and reporting, and requires the Corporation to provide
16 information on a timely basis as requested by the
17 National Government of the Federated States of
18 Micronesia. The Act further requires the Corporation to
19 establish an open and competitive procurement process

1 for the procurement of goods and services to ensure that
2 customers pay the best price for goods and services;
3 and, requires the Corporation to submit copies of the
4 request for proposals, bidder responses, and other
5 information to the National Government Department of
6 Transportation, Communications and Infrastructure ("the
7 Department"). The Act also requires the Department to
8 review the service plans, rates, business relations,
9 response to customer trouble calls, and establish
10 standards for the reporting of telecommunications
11 income, expenses, assets, and service levels, to provide
12 for a means by which customer complaints regarding
13 pricing and quality of services may be reviewed. The
14 Department is empowered to issue subpoenas and assess
15 penalties for noncompliance. The Department is directed
16 to prepare an annual report that will be submitted to
17 the President of the Federated States of Micronesia and
18 Congress of the Federated States of Micronesia on the
19 state of telecommunication services and ICT in the
20 Federated States of Micronesia."

21 Section 3. Title 21 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by enacting a
23 new section 302 to read as follows:

24 "Section 302. Review of Telecommunication Services,
25 Plans, and Operations. The National Government

1 Department of Transportation, Communication, and
2 Infrastructure shall have the power to review and
3 approve the services, plans, and operations of the
4 Corporation to ensure that the services are provided in
5 an effective, efficient, equitable and responsible
6 manner. The Department shall have the power and
7 authority to review the nature of consumer complaints,
8 including how complaints are registered and responded to
9 regarding: the rates and fares charged by the
10 Corporation, including the rationale and formulas used
11 for the rate calculations; the impacts on different
12 classes and location of consumers including public
13 services functions such as education, health, emergency
14 preparedness and response; the technology
15 infrastructure; the efficiency and effectiveness of the
16 operations of the services; details of the financial
17 statement; the value of its physical property; the
18 amount and disposition of its income and all its
19 financial transactions; its business relations with
20 other persons, companies, or corporations; and its
21 compliance with all applicable national laws."

22 Section 4. Title 21 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by enacting a
24 new section 303 to read as follows:

1 "Section 303. Reporting and Information. The National
2 Government Department of Transportation, Communication
3 and Infrastructure shall have the power to require the
4 Corporation to maintain records and data on activities
5 and to submit reports and provide documentation relating
6 to the plans, operations, business, procurements, and
7 other business and finance transactions. The Department
8 shall have the authority to compel the Corporation to
9 produce information on a timely basis for its review.
10 The Department may request the issuance of a subpoena to
11 achieve the purpose of this section; and the issuance of
12 subpoenas shall be issued in accordance with established
13 rules and procedure in the Federated States of
14 Micronesia which address the process for issuance of a
15 subpoena of documents and witnesses and shall establish
16 penalties for noncompliance."

17 Section 5. Title 21 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by enacting a
19 new section 304 to read as follows:

20 "Section 304. Annual Report on Telecommunications and
21 Information and Communication Technology (ICT). The
22 National Government Department of Transportation,
23 Communication and Infrastructure is directed to submit
24 an annual report on the progress of telecommunications
25 and ICT. The report shall be submitted to the President

1 of the Federated States of Micronesia and Congress of
2 the Federated States of Micronesia on November 30th of
3 each year. The report shall provide a summary of the
4 extent of services by customer class and coverage,
5 customer complaints and resolution of problems, the
6 finances, and other subjects identified in sections 250
7 and 251. The annual report shall also provide an
8 ongoing assessment of the use of ICT in education,
9 health and government.”

10 Section 6. Title 21 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by enacting a
12 new section 307 to read as follows:

13 “Section 307. Regulation. The Secretary of the
14 National Government Department of Transportation,
15 Communications and Infrastructure may, from time to
16 time, promulgate such regulations as are reasonably
17 necessary to implement the provisions of this chapter.”

18 Section 7. Section 203 of title 21 of the Code of the
19 Federated States of Micronesia is hereby amended to read as
20 follows:

21 “Section 203. Powers and responsibilities of the
22 Corporation. Subject to the provisions of Chapter 3,
23 the Corporation has the following powers and
24 responsibilities:

1 (1) to operate as the sole provider of all
2 telecommunications services, except radio and television
3 broadcasting, within the Federated States of Micronesia
4 and between points in the Federated States of Micronesia
5 and points outside thereof;

6 (2) to operate and manage such services on the
7 basis of commercially accepted practices, treating all
8 users of telecommunications services on equitable terms
9 in accordance with its published tariffs, and requiring
10 all users to pay for the services provided;

11 (3) to plan for the expansion and improvement of
12 telecommunications facilities and services;

13 (4) to the extent practicable, to expand
14 telecommunications services to areas and communities in
15 the Federated States of Micronesia that are presently
16 unserved or poorly served and to improve the quality,
17 reliability, and variety of services available to all
18 users in a manner consistent with commercial
19 reasonableness, and with promoting economic development,
20 the advancement of education and health care, and the
21 preservation of the cultural identity of the people of
22 the Federated States of Micronesia;

23 (5) to improve the telecommunications skills and
24 promote the telecommunications training of Micronesian
25 citizens who are employees of the Corporation;

1 (6) to establish, publish, and implement a
2 structure of tariffs and rates for telecommunications
3 services calculated to ensure that, to the extent
4 practicable, adequate and equitable charges are imposed
5 for services and that the tariff structure promotes the
6 increased use of telecommunications services;

7 (7) to invest all surplus revenues of the
8 Corporation in the expansion and improvement of
9 telecommunications facilities and services;

10 (8) to incur indebtedness for the purpose of
11 expanding and improving telecommunications facilities,
12 to the extent and on such terms as are deemed
13 commercially reasonable by the Corporation;

14 (9) to provide on a reimbursable basis emergency
15 telecommunications services to governments, individuals
16 and entities in the Federated States of Micronesia; and

17 (10) to represent the Federated States of Micronesia
18 with regard to telecommunications matters in such
19 international organizations and fora in which the
20 Federated States of Micronesia is represented, subject
21 to the policy guidance of the Government of the
22 Federated States of Micronesia.

23 Section 8. Title 21 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by enacting a
25 new section 232 to read as follows:

1 "Section 232. Transparency, Reporting and
2 Information. The Corporation shall operate on the
3 principles of transparency as a public corporation.
4 The Corporation shall operate on a policy of
5 disclosure and transparency, and maintain and
6 provide records and documentation of the
7 Corporation's activities. The Corporation shall
8 comply with orders for the production of
9 information, unless there is clear, compelling, and
10 well-documented justification submitted to the
11 Department in writing for not disclosing
12 information. Such documentation shall be submitted
13 to the Department for a determination on whether
14 such information should be confidential and to
15 become a matter of record. The Corporation shall
16 further maintain and provide access to records that
17 include, but is not limited to: customer
18 complaints; trouble call, and response; studies;
19 rate and consumer information; rate projections;
20 procurements; board agenda; documents provided by
21 management; minutes that document major decisions;
22 and other matters as may be required by law and
23 good business practice."

1 Section 9. Title 21 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a
3 new section 233 to read as follows:

4 "Section 233. Procurement. The Corporation shall
5 establish an open competitive bidding process that
6 provides for competitive purchases of goods and
7 services that exceeds \$50,000 in a year. The
8 Corporation shall establish good business rules and
9 practices for when a sole-source, Request for
10 Proposal, or Invitation to bid is appropriate. The
11 Corporation shall provide a Notice to the Public
12 for such procurements and an annual listing of all
13 procurements of goods or services that exceed
14 \$10,000 to the Department."

15 Section 10. Title 21 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by enacting a
17 new section 234 to read as follows:

18 "Section 234. Application. This Chapter shall not
19 apply to the telecommunication of foreign
20 governments, nor shall it apply to the FSM
21 Government, State government, or any political
22 subdivision."

23

24

25 Section 11. This act shall become law upon approval by the

1 President of the Federated States of Micronesia or upon its
2 becoming law without such approval.

3

4 Date: 3/24/09

Introduced by: /s/ Joe N. Suka

Joe N. Suka
(by request)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24