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SECOND CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 1981

C.B. No. 2-57

A BILL FOR AN ACT

To establish a communications corporation of the Federated States of Micronesia, and for other purposes.

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

1 Section 1. Short title. This act may be cited as the "Micronesian
2 Communications Act of 1981."

3 Section 2. Establishment of corporation. The Communications Corporation
4 of the Federated States of Micronesia is hereby established as a public
5 corporation under the laws of the Federated States of Micronesia. It may
6 be hereinafter referred to as "the Corporation."

7 Section 3. Powers and responsibilities of the Corporation. The
8 Corporation has the following powers and responsibilities:

9 (1) To operate as the sole common carrier of all telephone,
10 telegraph, telex, radio, and other communications services within the
11 Federated States of Micronesia and between points in the Federated States
12 of Micronesia and points outside thereof;

13 (2) To operate and manage such services on the basis of
14 commercially accepted practices, treating all users of communications
15 facilities on equitable terms;

16 (3) To plan for the expansion and improvement of communications
17 facilities and services;

18 (4) To expand communications services to areas and communities
19 in the Federated States of Micronesia that are presently unserved or
20 poorly served; to improve the quality, reliability, and variety of services
21 available to all users in a manner consistent with commercial reasonableness;
22 and to promote economic development, the advancement of education and
23 health care, and the preservation of the cultural identity of the people
24 of the Federated States of Micronesia;

25 (5) To improve the skills and promote the training of

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- 1 Micronesian citizens who are employees of the Corporation;
 - 2 (6) To establish and implement a structure of rates and tariffs
 - 3 for communications services calculated to ensure that adequate and equitable
 - 4 charges are imposed for services and that the use of communications
 - 5 facilities is increased to the maximum extent reasonably feasible;
 - 6 (7) To invest all surplus revenues in the expansion and improvement
 - 7 of communications facilities and services;
 - 8 (8) To incur indebtedness for the purpose of expanding and improving
 - 9 communications facilities, to the extent and on such terms as are deemed
 - 10 commercially reasonable by the Corporation;
 - 11 (9) To provide on a reimbursable basis emergency communications
 - 12 services to governments, individuals, and entities in the Federated States
 - 13 of Micronesia; and
 - 14 (10) To represent the Federated States of Micronesia with regard to
 - 15 communications matters in such international organizations and fora in which
 - 16 the Federated States of Micronesia is represented, subject to the policy
 - 17 guidance of the Government of the Federated States of Micronesia.
 - 18 Section 4. Other powers of the Corporation. To the extent that such
 - 19 services do not unreasonably impair the ability of the Corporation to operate
 - 20 and maintain its national and international communications services, the
 - 21 Corporation is authorized:
 - 22 (1) To provide on a commercially reasonable basis such services
 - 23 relating to communications as may be requested by governments, individuals,
 - 24 and entities; and
 - 25 (2) To establish and operate on a commercial basis, or on a

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1 reimbursable basis if so requested by the Government of the Federated States
2 of Micronesia, radio and television broadcast stations, in a manner consistent
3 with promoting economic development, the advancement of education and health
4 care, and the preservation of the cultural identity of the people of the
5 Federated States of Micronesia.

6 Section 5. Legal capacity of the Corporation. In performing the
7 functions authorized under this act or other law of the Federated States of
8 Micronesia, the Corporation shall have the capacity to exercise all powers
9 normally exercised by a corporation, including, but not limited to, the
10 following:

11 (1) To adopt, alter, and use a corporate seal;

12 (2) To adopt and amend bylaws governing the conduct of its
13 business and the exercise of its powers;

14 (3) To sue and be sued in its corporate name;

15 (4) To acquire, in any lawful manner, real, personal, or mixed
16 property, either tangible or intangible; to hold, maintain, use, and operate
17 such property; and to sell, lease, or otherwise dispose of such property;

18 (5) To acquire and take over in any lawful manner the business,
19 property, assets, and liabilities of any entity, including the Government
20 of the Trust Territory of the Pacific Islands relating to communications;

21 (6) To borrow or raise any sum or sums of money and to issue
22 corporate bonds on such security and upon such terms as may from time to
23 time be deemed necessary for the expansion and improvement of communications
24 facilities;

25 (7) To retain and terminate the services of employees, agents,

1 attorneys, auditors, and independent contractors upon such terms and conditions
2 as it may deem appropriate; and

3 (8) To do all such other things as may be deemed incidental to or
4 conducive to the attainment of the responsibilities of the Corporation.

5 Section 6. Debts and obligations of the Corporation. Unless otherwise
6 expressly provided by law, the debts and obligations of the Corporation shall
7 not be debts or obligations of the Government of the Federated States of
8 Micronesia, nor shall the Government of the Federated States of Micronesia be
9 responsible for any such debts or obligations.

10 Section 7. Tax liability. The Corporation shall exist and operate
11 solely for the benefit of the public and shall be exempt from any taxes or
12 assessments on any of its property, operations, or activities. Nothing herein
13 shall be deemed to exempt employees and independent contractors of the
14 Corporation from tax liability for services rendered to the Corporation; and
15 the Corporation shall be liable for employers' contributions to the Social
16 Security System of the Federated States of Micronesia in the manner provided
17 by law.

18 Section 8. Board of Directors.

19 (1) Establishment. The affairs of the Corporation shall be
20 managed and its corporate powers exercised by a Board of Directors, herein-
21 after referred to as "the Board."

22 (2) Composition. The Board shall be composed of five members
23 who shall be appointed by the President of the Federated States of Micronesia
24 with the advice and consent of the Congress. In addition, the Governor of
25 each State of the Federated States of Micronesia shall appoint one member of

1 the Board with the advice and consent of the respective State legislature. The
2 Vice President of the Federated States of Micronesia and the chief executive
3 officer of the Corporation shall serve ex officio as members of the Board with
4 full rights of membership.

5 (3) Organizational meeting. On September 1, 1981, and annually
6 thereafter during the month of September on such dates as are set by the
7 Board, the Board shall meet to select its officers and to conduct such other
8 business as it shall deem advisable. At the first such meeting, the appointed
9 members of the Board shall determine by lot the length of their initial terms,
10 with three members serving initial terms of one year, three serving initial
11 terms of two years, and three serving initial terms of three years. The
12 President of the Federated States of Micronesia may, by Executive order, set
13 the first organizational meeting for another date not later than December
14 31, 1981.

15 (4) Terms of office. Terms of office shall be for a period of
16 three years, except that the initial terms of office and the filling of
17 vacancies shall be as provided by this act. The terms of office shall
18 commence on September 1, 1981, or on the date of the organizational
19 meeting of the Board, whichever occurs first.

20 (5) Vacancies. Each vacancy on the Board shall be filled for
21 the unexpired portion of the terms in the same manner as originally filled.
22 Upon a determination that a vacancy exists, the chairman or, in his absence,
23 the presiding officer of the Board shall issue a notice of vacancy to all
24 members of the Board and the parties responsible for filling the vacancy.
25 Any vacancy, occasioned by failure to make a nomination to the Congress or a

1 State legislature prior to the expiration of the previous term, or by
2 failure to submit a nomination to the legislature within 60 days of receipt
3 of notice that a vacancy exists, or within 10 days of receipt of notice of
4 rejection of nomination, shall be filled by nomination of the Congress or
5 the Speaker of the legislature, subject to advice and consent of the
6 Congress or the legislature or an authorized committee thereof.

7 (6) Removal.

8 (a) Members of the Board may be removed from the Board for
9 failure to attend three consecutive meetings of the Board.

10 (b) A member may be removed by a 3/4 majority vote of all
11 other members of the Board for incompetence, neglect of duty, or malfeasance
12 in office. Notification of intent to call for removal pursuant to this
13 subsection shall be made at least 30 days in advance, by means which shall
14 be described in the bylaws of the Corporation, and shall include a summary
15 of the basis of the charges against the member and identification of the
16 witnesses to be called and evidence to be used.

17 (c) The Supreme Court of the Federated States of Micronesia
18 shall have jurisdiction to hear claims of wrongful removal.

19 (7) Officers. The Board shall elect from among its members a
20 chairman, vice chairman, and secretary-treasurer. The chairman shall
21 ordinarily preside at Board meetings. In his absence the vice chairman
22 shall preside. In the absence of both, the secretary-treasurer shall
23 preside. The bylaws shall provide for determination of the presiding
24 officer in the absence of these officers.

25 (8) Regular meetings. Regular meetings shall be held not less

1 than once per calendar quarter, at such times and place or places as shall
2 be determined by the bylaws.

3 (9) Special meetings. Special meetings shall be called by the
4 chairman on his own initiative, or by petition of 1/3 of the members,
5 pursuant to notice as shall be provided in the bylaws.

6 (10) Quorum. A quorum of all regular business of the Board
7 shall be seven members.

8 (11) Executive committee. The Board may, by bylaws, establish
9 an executive committee, determine the membership thereof, and assign it
10 responsibilities.

11 (12) Record of meetings. All meetings of the Board and the
12 executive committee shall be public except when confidential matters
13 relating to personnel are discussed. The secretary-treasurer, or in his
14 absence another member designated by the bylaws, shall keep full and
15 accurate minutes of all meetings which, except for confidential matters,
16 shall be available for public inspection at reasonable times and places, as
17 provided in the bylaws.

18 (13) Compensation of directors. Directors who are employees of
19 the National Government or a State government of the Federated States of
20 Micronesia shall receive no additional compensation for their service as
21 members of the Board. The compensation of members who are not government
22 employees shall be as determined by the Board. All members of the Board
23 shall be entitled to compensation for travel and per diem at established
24 National Government rates when serving the Corporation.

25 Section 9. Management. There shall be a chief executive officer of

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1 the Corporation, whose compensation, title, and term of office shall be
2 determined by the Board. The chief executive officer shall be responsi-
3 ble for the management of the operations of the Corporation, and shall in
4 accordance with the policies established by the Board, retain, direct, and
5 terminate the services of employees.

6 Section 10. Budget and finance officer. The chief executive officer
7 shall appoint, with the concurrence of the Board, a budget and finance
8 officer, for such term as shall be provided in the bylaws of the Corporation.
9 He shall receive and disburse all funds of the Corporation. The Board may
10 require that he shall execute, at the expense of the Corporation, a good and
11 sufficient bond with sureties authorized to do business in the Federated
12 States of Micronesia. The budget and finance officer shall serve at all times
13 under the direct supervision of the chief executive officer.

14 Section 11. Budget preparation. The budget and finance officer shall
15 prepare in advance of each fiscal year, under the supervision of the chief
16 executive officer, an annual budget for the Corporation, taking into
17 consideration anticipated capital and operational expenditures and
18 anticipated revenues. The Corporation shall use the same fiscal calendar
19 as that of the Government of the Federated States of Micronesia. The budget
20 shall indicate the operational, capital, and maintenance requirements of the
21 Corporation that will be met with the anticipated revenues of the Corporation,
22 and such essential requirements as cannot be met without increase in the
23 rate of revenues or outside financial assistance.

24 Section 12. Supplemental budget requests. To the extent that the
25 Corporation deems it necessary and advisable, the Corporation is authorized

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1 to seek appropriations from the Congress of the Federated States of Micro-
2 nesia and, to the extent approved by the President of the Federated States
3 of Micronesia, grants from sources outside of the Federated States of
4 Micronesia, of such funds as are necessary to supplement revenues to provide
5 for the operations, maintenance, and expansion of the communications system
6 of the Federated States of Micronesia.

7 Section 13. Accounts and records.

8 (1) The Board and the chief executive officer shall be jointly
9 responsible to ensure that the budget and finance officer prepares proper
10 and complete books of account reflecting all income, expenditures, assets,
11 and liabilities of the Corporation.

12 (2) The Board, not later than 60 days after the close of each
13 governmental fiscal year, shall submit to the President and the Congress a
14 complete report showing the activities of the Corporation during the fiscal
15 year, the present condition of the Corporation, and such other matters as the
16 Board shall deem appropriate.

17 (3) The Board shall have the books of account audited by an
18 independent auditor no less frequently than annually. The public auditor,
19 when appointed, shall perform this function.

20 Section 14. Advisory council. The President of the Federated States
21 of Micronesia shall appoint 15 members, and the Speaker of the Congress
22 shall appoint 10 members, of a national advisory council on communications
23 policy, at least three of whose members shall represent each State in the
24 Federated States of Micronesia. The members of the council should be
25 broadly representative of the actual and potential users of the communications

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1 system and shall include representatives of the medical and educational
2 professions, civil aviation, maritime commerce, broadcasting, law
3 enforcement, and business. They may meet from time to time on a State-
4 by-State basis, and shall meet in a plenary session not less than once
5 every two years. They shall report to the President, the Speaker, and the
6 Corporation on their comments and recommendations regarding communications
7 services in the Federated States of Micronesia.

8 Section 15. Transition.

9 (1) The Corporation shall commence operation of communications in
10 the Federated States of Micronesia at such time as it has acquired title to or
11 control over the communications equipment and other related property of any
12 entity including the Trust Territory of the Pacific Islands which is located
13 in the Federated States of Micronesia, or as may otherwise be agreed between
14 the Government of the Federated States of Micronesia and the Government of the
15 Trust Territory of the Pacific Islands. The Corporation shall determine the
16 manner and terms upon which it shall assume common carrier status in accordance
17 with applicable law.

18 (2) The Corporation shall undertake to employ the employees of the
19 Trust Territory Government and the State governments who are employed in
20 good standing in communications services at the time that the Corporation
21 commences operation of communications services. Nothing herein shall require
22 the Corporation to hire such employees at positions commensurate with their
23 former responsibilities, or at the rate of wages previously received; however,
24 all said employees shall retain their rights to accrued sick leave and annual
25 leave not in excess of 100 hours.

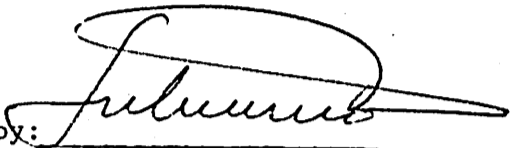
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1 Section 16. Effective date. This act shall become law upon approval
2 by the President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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Date: 5/28/81

Introduced by: 
Luke M. Tman
(By request)