

AN ACT

To repeal in their entirety Public Laws Nos. 20-13 and 20-20 pertaining to the assets and liabilities of the Open Access Entity, and to reinstate the previous language of sections 203 and 389 of title 21 of the Code of the Federated States of Micronesia (Annotated), as amended, and for other purposes.

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

1 Section 1. Purpose. Public Laws 20-13 and 20-20 pertain to
2 the assets and liabilities of the Open Access Entity associated
3 with the HANTRU1 fiber optic project. In particular the public
4 laws mandate certain relations between the Open Access Entity and
5 the FSM Telecommunications Corporation. The public laws were
6 subsequently found not to be in compliance with certain conditions
7 of the financing agreement of the project. The Open Access Entity
8 and the FSM Telecommunications Corporation negotiated also an
9 agreement concerning their mutual relationship. The public laws
10 are therefore no longer necessary and may create inconsistency
11 problems with the negotiated agreement. They therefore need to be
12 repealed and the language reinstated previous to what it was
13 before the amending of sections 203 and 389 of title 21 of the
14 Code of the Federated States of Micronesia (Annotated).

15 Section 2. Public Laws Nos. 20-13 and 20-20 are
16 hereby repealed in their entirety.

17 Section 3. Section 203 of title 21 of the Code of

1 the Federated States of Micronesia (Annotated), as amended, is
2 hereby further amended to read as follows:

3 "Section 203. Powers and responsibilities of the
4 Corporation. The Corporation has the following powers
5 and responsibilities:

- 6 (1) to operate as a provider of all
7 telecommunications within the Federated States of
8 Micronesia and between points in the Federated States
9 of Micronesia and points outside thereof;
- 10 (2) to operate and manage such services on the basis
11 of commercially accepted practices, treating all users
12 of telecommunications services on equitable terms in
13 accordance with its published tariffs, and requiring
14 all users to pay for the services provided;
- 15 (3) to plan for the expansion and improvement of
16 telecommunications facilities and services;
- 17 (4) to the extent practicable, to expand
18 telecommunications services to areas and communities in
19 the Federated States of Micronesia that are presently
20 unserved or poorly served and to improve the quality,
21 reliability, and variety of services available to all
22 users in a manner consistent with commercial
23 reasonableness and with promoting economic development,
24 the advancement of education and health care, and the
25 preservation of the cultural identity of the people of

1 the Federated States of Micronesia;

2 (5) to improve the telecommunications skills and
3 promote the telecommunications training of Micronesian
4 citizens who are employees of the Corporation;

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

11 (7) to invest all surplus revenues of the
12 Corporation in the expansion and improvement of
13 telecommunications facilities and services;

14 (8) to incur indebtedness for the purpose of
15 expanding and improving telecommunications facilities,
16 to the extent and on such terms as are deemed
17 commercially reasonable by the Corporation;

18 (9) to provide on a reimbursable basis emergency
19 telecommunications services to governments,
20 individuals, and entities in the Federated States of
21 Micronesia."

22 Section 4. Section 389 of title 21 of the Code of the
23 Federated States of Micronesia (Annotated), as amended, is hereby
24 further amended to read as follows:

25 "Section 389. Establishment of Open Access Entity and

1 authority to acquire assets and assume liabilities and
2 obligations.

3 (1) Should the Secretary certify that it is in the
4 interests of the Federated States of Micronesia for a
5 corporation owned by the Government to be established
6 under this section in order to own and operate submarine
7 and terrestrial cable assets within the Federated States
8 of Micronesia or serving the Federated States of
9 Micronesia (the Open Access Entity), the corporation
10 shall be deemed to be established as at the vesting
11 date, and with such assets and liabilities, specified in
12 such certificate.

13 (2) The Open Access Entity shall provide
14 international and domestic connectivity for the
15 transmission of data for communications services as a
16 wholesaler but not at retail. Such connectivity shall
17 be provided on non-discriminatory and cost-based terms.

18 (3) The assets, liabilities and obligations referred
19 to in a certificate issued under subsection (1) or any
20 amending or supplementary certificate issued by the
21 Secretary may be described specifically or by class, and
22 no objection shall be taken in any court to the accuracy
23 or completeness of such description.

24 (4) Nothing in this section shall restrict or prevent
25 the Open Access Entity from acquiring other assets or

1 undertaking other activities that in the opinion of the
2 board of the Open Access Entity are required in order to
3 provide the services referred to in subsection (3)."

4 Section 5. This act shall become law upon approval by the
5 President of the Federated States of Micronesia or upon its
6 becoming law without such approval.

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for /s/ Yosiwo P. George
Peter M. Christian
President
Federated States of Micronesia

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