



The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 15-62
FSM CONGRESS

September 11, 2007

The Honorable Isaac V. Figir
Speaker
15th FSM Congress
Palikir, Pohnpei, FM 96941

RE: C.A. No. 15-12

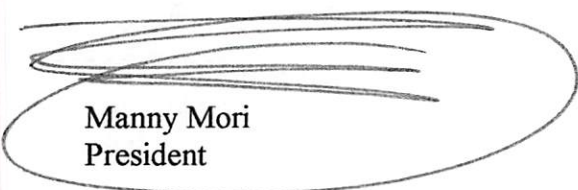
Dear Speaker Figir:

I am pleased to inform you that I have designated the following Congressional Act as Public Law No. 15-08:

Congressional Act No. 15-12 "AN ACT TO ENACT A NEW TITLE 27 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA TO GOVERN ESSENTIAL SERVICES AND TO ENACT A NEW CHAPTER 2 THEREOF TO CREATE THE FEDERATED STATES OF MICRONESIA PETROLEUM CORPORATION AS A PUBLIC CORPORATION, AND FOR OTHER PURPOSES".

I sincerely appreciate the support and swift action of the Congress in passing this Act.

Sincerely,



Manny Mori
President

xc: Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Secretary, Department of Finance and Administration
Legislative Counsel, CFSM
PIO, FSM
Library, CFSM





CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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PRESIDENTIAL COMM. NO. 15-62
FSM CONGRESS

September 08, 2007



His Excellency Manny Mori
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear Mr. President:

I have the honor to transmit herewith Congressional Act No. 15-12, "AN ACT TO ENACT A NEW TITLE 27 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA TO GOVERN ESSENTIAL SERVICES AND TO ENACT A NEW CHAPTER 2 THEREOF TO CREATE THE FEDERATED STATES OF MICRONESIA PETROLEUM CORPORATION AS A PUBLIC CORPORATION, AND FOR OTHER PURPOSES.", which was passed by the Fifteenth Congress of the Federated States of Micronesia, Second Special Session, 2007, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana K. Ramon
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures



PRESIDENTIAL COMM. NO. 15-62
FSM CONGRESS

FIFTEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
SECOND SPECIAL SESSION
SEPTEMBER 5 – 11, 2007

PUBLIC LAW No. 15 - 08

An Act

TO ENACT A NEW TITLE 27 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA TO GOVERN ESSENTIAL SERVICES AND TO ENACT A NEW CHAPTER 2 THEREOF TO CREATE THE FEDERATED STATES OF MICRONESIA PETROLEUM CORPORATION AS A PUBLIC CORPORATION, AND FOR OTHER PURPOSES.

INTRODUCED BY: JOE N. SUKA (BY REQUEST)

DATE: JULY 5, 2007

REFERRED TO: RESOURCES AND DEVELOPMENT COMMITTEE
S.C.R. NO. 15-23 – SEPTEMBER 6, 2007

FIRST READING: SEPTEMBER 6, 2007

SECOND READING: SEPTEMBER 7, 2007

Liwiana K. Ramon
Chief Clerk, FSM Congress



Office of the Speaker

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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PRESIDENTIAL COMM. NO. 15-42
FSM CONGRESS

ACT NO. 15-12

(CONGRESSIONAL BILL NO. 15-39, C.D.1,
C.D.2, C.D.3, C.D.4)

We hereby certify that on September 7 the foregoing act passed Second and Final Reading of the Fifteenth Congress of the Federated States of Micronesia, Second Special Session, 2007, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

Isaac V. Figir
Speaker
Congress of the
Federated States of Micronesia

Liwiana K. Ramon
Chief Clerk
Congress of the
Federated States of Micronesia

FIFTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 2007 CONGRESSIONAL BILL NO. 15-39, C.D.1, C.D.2,
C.D.3, C.D.4

PUBLIC LAW No. 15-08

AN ACT

To enact a new title 27 of the Code of the Federated States of Micronesia to govern essential services and to enact a new chapter 2 thereof to create the Federated States of Micronesia Petroleum Corporation as a public corporation, and for other purposes.

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

1 Section 1. The Code of the Federated States of Micronesia,
2 as amended, is hereby further amended by enacting a new title 27
3 entitled "Essential Services".

4 Section 2. The Code of the Federated States of Micronesia,
5 as amended, is hereby further amended by enacting a new chapter 1
6 of title 27 which shall be titled "Reserved".

7 Section 3. The Code of the Federated States of Micronesia,
8 as amended, is hereby further amended by enacting a new chapter 2
9 of title 27 which shall be entitled "Federated States of
10 Micronesia Petroleum Corporation Act of 2007".

11 Section 4. The Code of the Federated States of Micronesia,
12 as amended, is hereby further amended by enacting a new section
13 201 to chapter 2 of title 27 as follows:

14 "Section 201. Short title. This chapter may be cited
15 as the "Federated States of Micronesia Petroleum
16 Corporation Act of 2007"."

17 Section 5. The Code of the Federated States of Micronesia,
18 as amended, is hereby further amended by enacting a new section
19 202 to chapter 2 of title 27 as follows:

1 "Section 202. Definitions. For the purposes of this
2 chapter and subsequent regulations, the following
3 definitions shall apply unless the context otherwise
4 requires:

5 (1) "Board" means the Board of Directors appointed
6 under section 213;

7 (2) "CEO" means the Chief Executive Officer appointed
8 under section 231;

9 (3) "Chairperson" means the Chairperson of the Board;

10 (4) "Congress" means the Congress of the Federated
11 States of Micronesia;

12 (5) "Corporation" means the Federated States of
13 Micronesia Petroleum Corporation;

14 (6) "Executive Council" means the President of the
15 Federated States of Micronesia and the Governor of each
16 State. As used herein, consent, approval or instruction
17 of the Executive Council shall mean such consent,
18 approval or instruction taken with the unanimous consent
19 of the President and each Governor. For the avoidance
20 of doubt, a written resolution of the Federated States
21 of Micronesia Economic Policy Implementation Council,
22 duly signed by the President and each Governor, shall
23 constitute such an instruction notwithstanding the fact
24 that it is also executed by other officials;

25 (7) "FSM" means the Federated States of Micronesia;

1 (8) "Officer" includes any employee of the
2 Corporation vested with a power or duty in accordance
3 with this Chapter;

4 (9) "Premises" means any piece of land and if there
5 are buildings of any sort erected on that land, includes
6 those buildings, and also includes a ship or other
7 vessel;

8 (10) "Product" or "Products" means petroleum products
9 including automotive and industrial diesel fuels,
10 gasoline, unleaded petrol, kerosene, Jet A1, lubricants
11 and any other petroleum or alternative fuel products
12 that may now be available or that may become available
13 in the future;

14 (11) "Secretary" means the Secretary of Finance and
15 Administration of the Federated States of Micronesia;

16 (12) "State" means a State of the Federated States of
17 Micronesia;

18 (13) "Works" or "Works of the Corporation" includes
19 the whole of the petroleum storage and dispensing
20 systems and associated works owned, controlled or
21 managed by the Corporation for any purpose associated
22 with its functions under this Act."

23 Section 6. The Code of the Federated States of Micronesia,
24 as amended, is hereby further amended by enacting a new section
25 211 to chapter 2 of title 27 as follows:

1 "Section 211. Establishment of Corporation. The
2 Federated States of Micronesia Petroleum Corporation is
3 hereby established as a public corporation under the
4 laws of the Federated States of Micronesia. It may
5 hereinafter be referred to as "the Corporation"."

6 Section 7. The Code of the Federated States of Micronesia,
7 as amended, is hereby further amended by enacting a new section
8 212 to chapter 2 of title 27 as follows:

9 "Section 212. Independence. The Corporation shall not
10 be deemed to be a government department, board or agency
11 and as such is not subject to the laws governing the
12 activities of the government including but not limited
13 to title 52 (the Public Service System Act) and title 55
14 (The Financial Management Act); provided, however, that
15 nothing herein shall be deemed to waive the Corporations
16 responsibility to comply with the Financial Management
17 Act if allotted government funds."

18 Section 8. The Code of the Federated States of Micronesia,
19 as amended, is hereby further amended by enacting a new section
20 213 to chapter 2 of title 27 as follows:

21 "Section 213. Board of Directors of the Corporation.
22 The affairs of the Corporation shall be managed and its
23 corporate powers exercised by a Board of Directors,
24 hereinafter referred to as 'the Board.'"

25 Section 9. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 214(a) to chapter 2 of title 27 as follows:

3 "Section 214(a). Appointment and Termination of
4 Directors.

5 (1) The Board shall be composed of seven voting
6 members as follows:

7 (a) one director appointed by the President of
8 the FSM with the advice and consent of Congress;

9 (b) one director appointed by the Governor of
10 the State of Chuuk with the advice and consent of the
11 Chuuk State Senate;

12 (c) one director appointed by the Governor of
13 the State of Kosrae with the advice and consent of the
14 Kosrae State Legislature;

15 (d) one director appointed by the Governor of
16 the State of Pohnpei with the advice and consent of the
17 Pohnpei State Legislature;

18 (e) one director appointed by the Governor of
19 the State of Yap with the advice and consent of the Yap
20 State Legislature; and

21 (f) two directors appointed by the President of
22 the FSM with the advice and consent of Congress from a
23 list of private sector candidates nominated by the four
24 State governors.

25 (2) The persons appointed under subsection 214(a)(1)

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1 must have experience in public administration,
2 environmental matters, finance, or oil and gas
3 distribution. At least one person appointed under
4 subsection 214(a)(1)(f) must have special knowledge and
5 capacity in the field of oil and gas distribution.

6 (3) No person appointed under subsection 214(a)(1)
7 nor any member of his or her immediate family may
8 possess any pecuniary interest in any business or entity
9 which derives any part of its revenue from the
10 distribution of oil or gas in the Federated States of
11 Micronesia.

12 (4) The persons appointed under subsection 214(a)(1)
13 hold office for a term of three years, provided,
14 however, that the initial terms of office shall be
15 determined by lot at the first meeting held by the Board
16 with three members serving an initial term of one year,
17 two serving an initial term of two years and two serving
18 an initial term of three years. Provided further, that
19 if no replacement has been appointed prior to the
20 expiration of a director's term, he or she shall
21 continue to serve for an additional period of 90 days or
22 until a replacement is appointed, whichever is less.
23 All members are eligible for reappointment.

24 (5) Vacancies on the Board shall be filled for the
25 unexpired portion of the term in the same manner as

1 originally filled.

2 (6) The Board may, at any time by majority vote,
3 remove any director for failure to attend three
4 consecutive meetings of the Board, or for neglect of
5 duty or malfeasance in office."

6 Section 10. The Code of the Federated States of Micronesia,
7 as amended, is hereby further amended by enacting a new section
8 214(b) to chapter 2 of title 27 as follows:

9 "Section 214(b). Transitional Board of Directors.

10 Notwithstanding section 214(a), the President and the
11 Governors of the States of Chuuk, Kosrae, Pohnpei and
12 Yap shall have the authority to appoint a transitional
13 Board of Directors, whose tenure shall not exceed six
14 months. The transitional Board shall consist of five
15 members whose appointments are not subject to advice and
16 consent by Congress or any branch of a State
17 Legislature. One of the members shall be chosen by the
18 President of the FSM and one shall be chosen by each of
19 the Governors of the four FSM States. Appointment to
20 the transitional Board shall not preclude a permanent
21 appointment under section 214 (a) and a permanent
22 appointment pursuant to subsection 214(1)(a, b, c, d, or
23 e) shall immediately replace a person appointed to the
24 transitional Board pursuant to this section. All other
25 requirements of section 214(a) shall apply to the

1 transitional Board. The initial meeting of the
2 transitional Board may be called at any time after four
3 of the five members have been appointed.

4 Section 11. The Code of the Federated States of Micronesia,
5 as amended, is hereby further amended by enacting a new section
6 215 to chapter 2 of title 27 as follows:

7 "Section 215. Chairperson of the Board. The
8 Chairperson of the Board shall be chosen by the Board
9 members by majority vote and shall serve for a term of
10 one year from the date of selection. The Chairperson may
11 authorize, in writing, any director to exercise any
12 power or perform any function conferred on the
13 Chairperson by or under this Act."

14 Section 12. The Code of the Federated States of Micronesia,
15 as amended, is hereby further amended by enacting a new section
16 216 to chapter 2 of title 27 as follows:

17 "Section 216. Meetings of the Board.

18 (1) The Board must meet as often as may be necessary
19 for the performance of its functions, provided that it
20 shall meet no less than once per quarter each calendar
21 year and provided, further, that at least two such
22 meetings shall require the physical presence of the
23 directors at a single location.

24 (2) At any meeting, the quorum of the Board is a
25 majority of the total directors appointed at the time of

1 the meeting.

2 (3) Notice of a meeting of the Board must be given to
3 each director and shall be delivered by hand or sent by
4 post, facsimile, electronic mail or other written
5 message to an address supplied by the director to the
6 Board for this purpose.

7 (4) Decisions at meetings of the Board are taken by a
8 simple majority of the directors present and voting.

9 (5) Subject to this section, the Board may regulate
10 its own procedure.

11 (6) The validity of a proceeding of the Board is not
12 affected by a vacancy in the membership or by any defect
13 in the appointment of a director."

14 Section 13. The Code of the Federated States of Micronesia,
15 as amended, is hereby further amended by enacting a new section
16 217 to chapter 2 of title 27 as follows:

17 "Section 217. Transaction of Business Without Meeting.

18 A resolution of the Board is valid, even though it was
19 not passed at a meeting of the Board, if -

20 (1) it is signed or assented to by no less than five
21 directors of the Board; and

22 (2) a notice in writing of the proposed resolution
23 was given to each director no less than 7 Days before
24 the resolution is assented to by any director."

25 Section 14. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 218 to chapter 2 of title 27 as follows:

3 "Section 218. Remuneration of Directors. Directors who
4 are employees of the national government of the FSM or a
5 State government shall receive no additional
6 compensation for their service as members of the Board.
7 The compensation of members who are not Government
8 employees shall be as determined by the Board and
9 published in the minutes and annual report of the Board.

10 Section 15. The Code of the Federated States of Micronesia,
11 as amended, is hereby further amended by enacting a new section
12 219 to chapter 2 of title 27 as follows:

13 "Section 219. Disclosure of Interest.

14 (1) A director of the Board who has a direct or
15 indirect personal interest in the outcome of any matter
16 before the Board must disclose the interest to the
17 Board.

18 (2) The disclosure of an interest under subsection
19 (1) must be recorded in the minutes of the Board.

20 (3) After making a disclosure under subsection (1),
21 the director -

22 (a) in the case of a meeting, must withdraw from
23 the meeting before the commencement of deliberations of
24 the Board in respect of the matter referred to in
25 subsection (1), although the director may be counted for

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1 the purposes of forming a quorum of the Board at the
2 meeting; and

3 (b) in any case, must not vote on the matter."

4 Section 16. The Code of the Federated States of Micronesia,
5 as amended, is hereby further amended by enacting a new section
6 220 to chapter 2 of title 27 as follows:

7 "Section 220. Minutes of Meetings and Business
8 Transacted. The Board must keep minutes of all its
9 meetings and business transacted under section 216 and
10 217 in a proper form. All minutes of the meetings shall
11 be made available to the public upon request."

12 Section 17. The Code of the Federated States of Micronesia,
13 as amended, is hereby further amended by enacting a new section
14 221 to chapter 2 of title 27 as follows:

15 "Section 221. Delegation of Board's Powers.

16 (1) The Board may, from time to time, by notice in
17 writing under the hand of the Chairperson, delegate to
18 any person or committee any of the Board's powers under
19 this Act.

20 (2) A delegation under this section may be made to a
21 specified person or committee, or holder for the time
22 being of a specified office or to the holders of offices
23 of a specified class.

24 (3) A delegation may be made subject to such
25 restrictions and conditions as the Board thinks fit, and

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1 may be made either generally or in relation to any
2 particular case or class of cases.

3 (4) A person or committee purporting to exercise a
4 power of the Board by virtue of a delegation under this
5 section must, when required to do so, produce evidence
6 of authority of the person or committee to exercise the
7 power."

8 Section 18. The Code of the Federated States of Micronesia,
9 as amended, is hereby further amended by enacting a new section
10 231 to chapter 2 of title 27 as follows:

11 "Section 231. Appointment of Chief Executive Officer.

12 (1) The Board must appoint a Chief Executive Officer
13 on such terms and conditions as the Board may determine.

14 (2) The CEO -

15 (a) shall serve at the pleasure of the Board;

16 (b) shall have had not less than five years
17 experience in the oil industry, or the equivalent
18 experience in a related profession;

19 (c) shall not engage in any other business
20 without the prior consent of the Board;

21 (d) shall be responsible for the day to day
22 operation of the Corporation;

23 (e) shall be responsible for the proper
24 administration and management of the functions and
25 affairs of the Corporation;

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(f) shall be responsible for developing a five-year plan and an annual plan describing the medium and short term goals of the Corporation; and

(g) must perform such other functions and duties as the Board may determine.

(3) The Board shall review the performance of the Chief Executive Officer at least annually in light of the Corporation's goals and objectives, and may terminate the CEO at any time, for any reason.

(4) If the CEO is temporarily absent from FSM, or temporarily unable to perform the duties of office, the Board may, appoint a person to act in the place of the CEO during that period."

Section 19. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 232 to chapter 2 of title 27 as follows:

"Section 232. Appointment of Chief Financial Officer.

The CEO shall appoint, with the concurrence of the Board, a Chief Financial Officer, for such term as shall be directed by the Board. He shall receive and disburse all funds of the Corporation. The Chief Financial Officer shall serve at all times under the direct supervision of the CEO."

Section 20. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section

1 233 to chapter 2 of title 27 as follows:

2 "Section 233. Appointment of Health and Safety Officer.

3 The CEO shall appoint, with the concurrence of the
4 Board, a Health and Safety Officer. The Health and
5 Safety Officer, whose duties may be combined with those
6 of another position, shall be responsible for ensuring
7 compliance with all health, safety and environmental
8 laws and for developing, with input from the Board and
9 the Executive Council, health, safety and environmental
10 policies for the day-to-day operation of the
11 Corporation."

12 Section 21. The Code of the Federated States of Micronesia,
13 as amended, is hereby further amended by enacting a new section
14 234 to chapter 2 of Title 27 as follows:

15 "Section 234. Appointment of Other Officers and Staff.
16 To the extent consistent with this Title, the CEO may
17 appoint, retain and terminate, on such terms and
18 conditions as the Board may determine, such officers,
19 employees, agents, or consultants as may be necessary or
20 expedient for carrying out the functions and duties of
21 the Corporation."

22 Section 22. The Code of the Federated States of Micronesia,
23 as amended, is hereby further amended by enacting a new section
24 241 to chapter 2 of title 27 as follows:

25 "Section 241. Functions of the Corporation. The

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functions of the Corporation are -

(1) to operate and manage the Works, either directly or through contracting out such management to third parties;

(2) to secure contracts with Product suppliers who will provide the required fuel Products at the lowest cost through competitive bidding to the extent practicable;

(3) to provide oil and gas distribution services on the basis of commercially accepted practices, treating all purchasers of Products on equitable terms in accordance with its published prices and requiring all users to pay for fuel purchased; provided that nothing in this subsection shall prevent the Corporation from using subsidies received from governmental, international or private sources to reduce the overall costs charged to users of public utilities services;

(4) to plan for the continued security of Product supply in the FSM;

(5) to maintain and operate the Works so as to minimize the likelihood of interruption of supply, and to handle the Product in a manner that protects the environment, the safety, and the health of employees and the public;

(6) to make safety, health and environmental

1 considerations a priority in planning, and in the
2 development of new Products and processes; to advise
3 promptly, appropriate officials, employees, customers
4 and the public of information on significant industry-
5 related safety, health and environmental hazards, and to
6 recommend protective measures;

7 (7) to invest surplus revenues of the Corporation in
8 the maintenance, expansion and improvement of Product
9 facilities and services;

10 (8) to represent the Federated States of Micronesia
11 with regard to regional fuel supply initiatives as
12 requested by the Government of the Federated States of
13 Micronesia; and

14 (9) to do all those things which shall be necessary
15 or incidental to the performance of its functions under
16 this Chapter."

17 Section 23. The Code of the Federated States of Micronesia,
18 as amended, is hereby further amended by enacting a new section
19 242 to chapter 2 of title 27 as follows:

20 "Section 242. Powers of the Corporation.

21 (1) In performing the functions authorized under this
22 Chapter or under any other law of the Federated States
23 of Micronesia, the Corporation shall have the capacity
24 to exercise all powers normally exercised by a
25 corporation, including, but not limited to, the

1 following:

2 (a) to adopt, alter, and use a corporate seal;

3 (b) to adopt and amend bylaws governing the
4 conduct of its business and the exercise of its powers;

5 (c) to sue and be sued in its corporate name;

6 (d) to acquire, in any lawful manner, real,
7 personal, or mixed property, either tangible or
8 intangible; to hold, maintain, use, and operate such
9 property; and to sell, lease, or otherwise dispose of
10 such property;

11 (e) to, subject to Section 251 and the laws of
12 the Federated States of Micronesia, borrow or raise any
13 sum or sums of money and to issue corporate bonds on
14 such security and upon such terms as may from time to
15 time be deemed necessary for the expansion and
16 improvement of the Works;

17 (f) to retain and terminate the services of
18 employees, agents, attorneys, auditors, and independent
19 contractors upon such terms and conditions as it may
20 deem appropriate; and

21 (g) to do all such other things as may be deemed
22 incidental to or conducive to the attainment of the
23 responsibilities of the Corporation.

24 (2) Without limiting the generality of the powers
25 given to it by subsection (1), and in addition to any

1 other powers provided for by this Act, the Corporation
2 shall have the following specific powers -

3 (a) to acquire, lease, construct, maintain and
4 operate facilities, plant, equipment and infrastructure
5 associated with the supply of Product and the related
6 activities of the Corporation; to erect Works, and
7 install any necessary equipment, machinery and plant for
8 any purpose related to the functions of the Corporation;

9 (b) to acquire, lease and take over in any
10 lawful manner the business, property, assets, and
11 liabilities of any preexisting entity relating to fuel
12 storage and distribution;

13 (c) to purchase, lease or otherwise acquire and
14 maintain such personal and real property as the
15 Corporation may from time to time deem necessary for the
16 furtherance of its functions;

17 (d) to do all such things as it deems expedient
18 to enter into any contract for the sale, lease or
19 purchase of property related to the performance of its
20 functions;

21 (e) to hire out plant or equipment of the
22 Corporation and to enter into contracts for its
23 operation and management;

24 (f) to fix, charge and recover rates and fees
25 for the supply of Product and for any other service

1 provided by the Corporation;

2 (g) to fix, charge and recover any surcharge on
3 rates and fees for the supply of Product during any
4 period when it may be reasonably anticipated that the
5 supply of Product may be affected by a shortage of
6 supply;

7 (h) to ration or differentially allocate the
8 supply of Product consistent with reasonable business
9 practices and the needs of customers;

10 (i) to recover the capital cost of supplying
11 Product or providing other services to particular
12 premises on such terms and conditions as the Corporation
13 determines;

14 (j) to investigate any failure to comply with
15 this Act, or any act that effects the ability of the
16 Corporation to provide services under this Act, and to
17 take such steps as it considers necessary to secure
18 compliance with this Act or to prevent interference with
19 the activities of the Corporation; and

20 (k) to set and to enforce standards for work
21 done by contractors and tradesmen relating to the supply
22 of Product and any other service provided by the
23 Corporation."

24 Section 24. The Code of the Federated States of Micronesia,
25 as amended, is hereby further amended by enacting a new section

1 243 to chapter 2 of title 27 as follows:

2 "Section 243. Executive Council May Give Direction and
3 Require Information. The powers, functions and
4 discretion of the Corporation, its Board of Directors
5 and its officers shall be subject to the right and power
6 of the Executive Council to -

7 (1) request, and obtain from the Corporation, such
8 returns, accounts, and other information as the
9 Executive Council may, from time to time, require, and
10 to institute any investigation, hearing, audit or other
11 informational process as the Executive Council shall
12 deem appropriate; and

13 (2) set the terms and timing of any subsequent
14 divestment of the assets and operations of the
15 Corporation or for the issuance of common shares of the
16 Corporation; provided any such divestment must provide
17 for the payment or satisfaction of all indebtedness
18 incurred in the formation and operation of the
19 Corporation for which the Government of the Federated
20 States of Micronesia may be obligated or a full and
21 complete release of the Government of the Federated
22 States of Micronesia from liability for the repayment of
23 such loans or indebtedness."

24 Section 25. The Code of the Federated States of Micronesia,
25 as amended, is hereby further amended by enacting a new section

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1 251 to chapter 2 of title 27 as follows:

2 "Section 251. Debts and obligations of the Corporation.

3 (1) Unless otherwise expressly provided by law, the
4 debts and obligations of the Corporation shall not be
5 debts or obligations of the Government of the Federated
6 States of Micronesia or of a Government of a State, nor
7 shall the Government of the Federated States of
8 Micronesia or that of a State be responsible for any
9 such debts or obligations.

10 (2) Unless an express assumption of liability shall
11 be executed by the Corporation and approved by
12 Resolution of Congress, the Corporation shall not
13 assume, or be deemed to have assumed, the liability of
14 any third party whose assets or operations are acquired
15 by the Corporation, including, without limitation,
16 liabilities arising from any breach of legal or
17 contractual obligation or arising from violation of any
18 law, rule, ordinance, regulation or decree.

19 (3) During such periods of time there remains
20 outstanding any loans or obligations payable to the
21 Government of the Federated States of Micronesia or any
22 loans or obligations payable by the Corporation to any
23 other party for which the Government of the Federated
24 States of Micronesia may be a guarantor, borrower or
25 otherwise obligated, no new loans or indebtedness

(except credit extended pursuant to energy/fuel supply agreements) in excess of an aggregate amount of \$1,000,000 shall be incurred unless approved by Resolution of Congress."

Section 26. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 252 to chapter 2 of title 27 as follows:

"Section 252. Funds of the Corporation.

(1) The funds of the Corporation consist of -

(a) money appropriated from time to time by the FSM Congress and the State legislatures and paid to the Corporation;

(b) money derived from the disposal, lease, or hire of, or any other dealing with, any property vested in or acquired by the Corporation;

(c) money borrowed by the Corporation in accordance with subsection (2);

(d) income from interest referred to in subsection (3); and

(e) except as provided herein, any other moneys that may become payable to the Corporation in respect of the sale of Product or any matter incidental to its functions and powers.

(2) Subject to Section 251, the Corporation may borrow such sums as shall be required by the Corporation

1 to meet any of its obligations or to perform any of its
2 functions.

3 (3) The Corporation shall, to the extent practicable,
4 maintain its funds in the form of liquid, interest
5 bearing bank deposits or such other investments as shall
6 be approved in writing by the Board.

7 (4) The Corporation shall conserve its funds by
8 performing its functions and exercising its powers under
9 this Chapter so as to ensure that the total revenues of
10 the Corporation are sufficient to meet all sums properly
11 chargeable to its revenue account including depreciation
12 and interest on capital."

13 Section 27. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 253 to chapter 2 of title 27 as follows:

16 "Section 253. Annual Budget and Costs of
17 Administration.

18 (1) At such time and in such manner as the Board may
19 prescribe, the Chief Financial Officer shall submit to
20 the Board and to the Executive Council a detailed budget
21 for the next ensuing fiscal year which shall include:

22 (a) for the last completed fiscal year, audited
23 accounts indicating the prevailing rates and charges
24 applicable to the Product, the amount of gross income
25 generated by the Corporation, and the amount of all

1 capital and operational expenditures made by the
2 Corporation, together with the closing balance of all
3 bank accounts maintained by the Corporation;

4 (b) for the fiscal year in progress, a statement
5 showing the estimated amount of gross income and the
6 estimated amount of all capital and operational
7 expenditures made by the Corporation, together with such
8 summaries, schedules, and supporting data as the Board
9 may deem necessary; and

10 (c) for the next ensuing fiscal year, a budget
11 showing anticipated rates and charges for the Product,
12 the estimated amounts of gross income of the Corporation
13 and a statement of all estimated capital and operational
14 expenditures anticipated by the Corporation.

15 (2) In the event the expenditures identified in
16 subsection 1(c) are anticipated to exceed the estimated
17 amount of gross income to be generated by the
18 Corporation in the next ensuing fiscal year, plus
19 appropriations, grants, loans or subsidies fully
20 approved by the Congress of the Federated States of
21 Micronesia and the amount of any funds, including the
22 balance of any applicable capital expenditure sinking
23 funds earmarked for the current year's expenditures,
24 carried over from previous fiscal years, the proposed
25 budget shall include a plan for financing the deficit.

(3) For any fiscal year during which the Corporation is expected to have outstanding loan balances owing to the Federated States of Micronesia or in which the Federated States of Micronesia continues to be obligated or liable for repayment of any portion of a loan or debt of the Corporation, or if the proposed plan to finance a budget deficit pursuant to subsection (2) above includes a grant, loan, guarantee or subsidy from the Federated States of Micronesia, the budget of the Corporation shall be submitted to Congress for approval and no further loans or indebtedness shall be incurred by the Corporation until the budget has been approved by Resolution of Congress."

Section 28. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 254 to chapter 2 of title 27 as follows:

"Section 254. Accounts, Annual Report, and Audit.

(1) The Board, the CEO and the Chief Financial Officer of the Corporation are jointly responsible for ensuring that the Corporation at all times keeps adequate accounts of its transactions and financial affairs, and must, without limitation, ensure that -

(a) all moneys received by the Corporation are properly brought to account;

(b) all payments by the Corporation are properly

1 authorized;

2 (c) adequate control is maintained over the
3 Corporation's property and the incurring of liabilities;
4 and

5 (d) the accounts are kept in accordance with
6 generally accepted accounting principles.

7 (2) Within three months after the end of each
8 financial year, the Chief Financial Officer must prepare
9 a report of the Corporation's activities during the
10 financial year (referred to as the "Annual Report") and
11 shall submit a copy of the Report to the Secretary, the
12 Board and to the Executive Council.

13 (3) The Annual Report must contain, among other
14 things -

15 (a) a statement of financial performance, which
16 shall include a balance sheet, operating statements, a
17 statement of changes in financial position, and an
18 analysis of changes in retained earnings;

19 (b) a statement summarizing the rates and
20 charges prevailing throughout the prior year with
21 respect to the Product and the outlook for such rates in
22 the coming year;

23 (c) a statement concerning the condition of the
24 Works and the capital expenditure plan of the
25 Corporation;

(d) the CEO's one and five-year plans required pursuant to section 231 of this Chapter; and

(e) such other information as is required to give a true and fair view of the Corporation's financial and operational affairs.

(4) The annual accounts of the Corporation must be audited by the FSM Public Auditor. For this purpose, the Chief Financial Officer must, within three months after the end of each financial year submit to the Public Auditor -

(a) the statement of financial performance and accompanying accounts of the Corporation for the year;

(b) the most recent budget prepared pursuant to section 253; and

(c) the Annual Report for the year prepared in accordance with subsection (2)."

Section 29. The Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new section 255 to chapter 2 of title 27 as follows: .

"Section 255. Tax liability. The Corporation shall be liable for the payment of any tax, assessment or contribution as may be required by law. Nothing herein shall be deemed to exempt employees and independent contractors of the Corporation from any tax liability for services rendered to the Corporation.

1 Section 30. The Code of the Federated States of Micronesia,
2 as amended, is hereby further amended by enacting a new section
3 261 to chapter 2 of title 27 as follows:

4 "Section 261. Operating Standards. The Board, the CEO
5 and the Health and Safety Officer of the Corporation
6 shall be jointly responsible for developing and
7 implementing written operational policies that shall set
8 forth the manner in which the Corporation is to --

9 (1) manage its business with the goal of preventing
10 incidents and of controlling emissions and wastes to
11 below harmful levels, and to design, operate, and
12 maintain facilities to this end and to respond quickly
13 and effectively to incidents resulting from its
14 operations;

15 (2) design and maintain facilities, establish
16 management systems, provide training and conduct
17 operations in a manner that safeguards people and
18 property;

19 (3) identify and manage risks associated with its
20 products and to ensure that Product is not manufactured
21 or sold when it is not possible through proper design,
22 procedures, and practices to provide an appropriate
23 level of safety for people and the environment;

24 (4) specify precautions required in handling,
25 transporting, using, and disposing of Product and to

1 take reasonable steps to communicate those precautions
2 to employees, customers, and others who might be
3 affected;

4 (5) comply with all applicable environmental and
5 industrial and product safety laws and regulations and
6 to apply responsible standards where laws and
7 regulations do not exist;

8 (6) furnish services that reliably meet responsible
9 standards of performance, efficiency, and courtesy; to
10 furnish accurate and sufficient information about its
11 products and services, including details of guarantees
12 and warranties, so that customers can make informed
13 purchasing decisions; and where the Corporation's
14 products reach the ultimate consumer through independent
15 parties, such as service station dealers and
16 distributors, to actively encourage such parties to
17 achieve standards comparable to those which have been
18 established for the Corporation's own performance; and

19 (7) undertake appropriate reviews and evaluations of
20 its operations to measure progress and to foster
21 compliance with these policies."

22 Section 30. The Code of the Federated States of Micronesia,
23 as amended, is hereby further amended by enacting a new section
24 262 to chapter 2 of title 27 as follows:

25 "Section 262. Contracts.

(1) The purchase of all supplies and materials and the construction of all works by independent contractors, when the expenditure exceeds \$20,000, shall be, by contract, let to the lowest responsible bidder whose offer adequately responds in quality, fitness, and capacity to the particular requirements of the proposed work or materials and supplies called for by the contract; provided that Product quality and reliability of Product supply shall be taken into account when evaluating fuel supply agreements; and provided further that any initial fuel supply agreement and facilities operation agreement executed as part of a transaction by which the Corporation acquires the Works shall be exempt from such requirement. A notice requesting bids shall be published at least ten days before bids are received. The lowest responsible bidder shall be determined by the CEO using sound judgment and after consultation with the Board. The Board may reject any and all bids and re-advertise at its discretion.

(2) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices.

1 (3) In case of major public calamity, or whenever it
2 is in the interest of public safety or necessary to keep
3 public utilities services operational, the Board may
4 determine that the public interest and necessity demand
5 the immediate expenditure of funds to keep the services
6 operational or in a safe condition, and thereupon
7 authorize the expenditure of such sums as may be needed
8 without the observation of the provisions requiring
9 contracts, bids or notices.

10 (4) Where reasonable, preference in the letting of
11 contracts shall be given to local contractors based on
12 the procedure provided by Section 405, Title 55 of the
13 FSM Code.

14 (5) No director shall vote on any contract awarded by
15 the Board in which the director has a direct or indirect
16 financial interest."

17 Section 31. The Code of the Federated States of Micronesia,
18 as amended, is hereby further amended by enacting a new section
19 263 to chapter 2 of title 27 as follows:

20 "Section 263. Power to discontinue or ration supplies.

21 (1) In addition to any other powers of the
22 Corporation under this Act, the Corporation may, without
23 notice, discontinue, ration or limit any supply of
24 Product or other service provided by it if it considers
25 it necessary or desirable to do so -

1 (a) by reason of a disruption of international
2 supplies;

3 (b) by reason of any accident or emergency;

4 (c) to facilitate any work done or to be done by
5 the Corporation;

6 (d) to avoid or limit pollution; or

7 (e) for the conservation of strategic product
8 reserves.

9 (2) As soon as possible after it has taken any action
10 under sub-section (1) the Corporation shall give notice
11 of its action and indicate the likely duration of the
12 discontinuance or rationing.

13 (3) The Corporation shall not be liable to any person
14 for any loss or damage suffered by that person, and no
15 person shall have a claim against the Corporation, where
16 there is an increase, diminution or discontinuance in
17 the supply of Product or any other service provided by
18 the Corporation, or where there is a diminution in the
19 quality of products, provided that such increase,
20 diminution or discontinuance is caused by accident,
21 other natural phenomenon or other unavoidable cause, by
22 the Corporation acting in good faith in the proper
23 exercise of its functions, or by the exercise by the
24 Corporation of a power under this Act.

25 (4) Without limiting the foregoing, if any fees or

1 charges in respect of any customer, including
2 governments or governmental units of any type, remain
3 unpaid thirty (30) calendar days after the date due for
4 payment, the CEO may discontinue the supply of Product
5 and services to that customer and may commence legal
6 action to recover any rates, fees or charges that have
7 fallen due for payment."

8 Section 32. The Code of the Federated States of Micronesia,
9 as amended, is hereby further amended by enacting a new section
10 264 to chapter 2 of title 27 as follows:

11 "Section 264. Transition; Employees. The Corporation
12 may, at its discretion, undertake to hire employees in
13 good standing of pre-existing entities involved in the
14 business of oil and gas distribution in the FSM,
15 provided that the Corporation shall be under no
16 obligation to do so with respect to any particular
17 employee, nor shall it be required to hire employees at
18 the same salaries or to fill the same positions as they
19 may have enjoyed previously. In the event employees of a
20 pre-existing entity are employed by the Corporation, all
21 accrued benefits, sick leave, annual leave and other
22 contractual obligations owed by the pre-existing entity
23 to its employees shall remain the obligations of that
24 entity and shall not be assumed by the Corporation,
25 except to the extent directed in writing by the Board."

1 Section 33. The Code of the Federated States of Micronesia,
2 as amended, is hereby further amended by enacting a new section
3 265 to chapter 2 of title 27 as follows:

4 "Section 265. Issuance of Shares; divestment.

5 (1) Upon the written instruction of the Executive
6 Council, the Corporation shall, through the filing of
7 such documents as may be required of privately-held
8 corporations, including, without limitation, Articles of
9 Incorporation, Bylaws and Share Affidavits, capitalize
10 itself through the issuance of common shares and, in
11 such event, the provisions of this Chapter shall be made
12 subject to the terms of the Articles of Incorporation
13 and Bylaws, and nothing in this Chapter shall be read as
14 restricting the payment of dividends, the holding of
15 annual shareholder's meetings, the conduct of audits for
16 the benefit of shareholders, the election of Directors
17 and such other corporate governance and shareholder's
18 rights provisions as may be set out in the Articles of
19 Incorporation and Bylaws and approved by the Executive
20 Council.

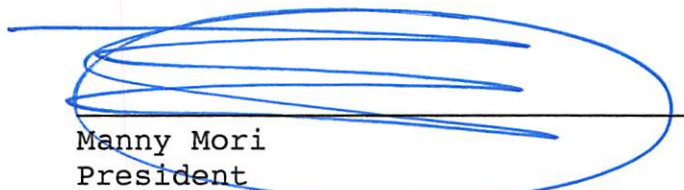
21 (2) Upon the written instruction of the Executive
22 Council, the Corporation shall, subject to the
23 conditions set forth in Section 243, take all necessary
24 steps to divest its assets and operations, in whole or
25 in part, to such entity or entities as shall be directed

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1 by the Executive Council. The Board and officers of the
2 Corporation shall take all necessary actions to
3 effectuate such divestment, including the execution of
4 documents and instruments, and the turnover of books,
5 records and personal property as shall be necessary to
6 transfer operations and assets of the Corporation to the
7 entity or entities designated by the Executive Council.
8 Upon written instruction of the Executive Council
9 following such divestment, the Corporation shall wind up
10 its affairs and cease operation."

11 Section 34. Effectiveness. This act shall become law upon
12 approval by the President of the Federated States of Micronesia or
13 upon its becoming law without such approval.

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18 09-11, 2007

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23 _____
24 Manny Mori
25 President
Federated States of Micronesia