A BILL FOR AN ACT

To further amend Title 21 of the Code of the Federated States of Micronesia, as amended, by enacting a new Chapter 3 to establish the National Government’s regulatory power over Telecommunication Operation in the Federated States of Micronesia, and by enacting new Sections 232, 233 and 234 and by amending Section 203 of Chapter 2 thereof to ensure the transparency, financial accountability and reporting, and fair procurement practices of the Federated States of Micronesia Telecommunications Corporation, and for other purposes.

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

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

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

"Section 301. Purpose. This Chapter is to ensure that telecommunication services in the Federated States of Micronesia are provided in an effective, efficient, transparent, and financially accountable manner. The Act requires the FSM Telecommunication Corporation ("the Corporation") to operate on the principles of transparency in its business operations, procurement, and reporting; and requires the Corporation to provide information on a timely basis as may be required by the National Government of the Federated States of Micronesia. The Act further requires the Corporation to..."
establish an open and competitive procurement process
for the procurement of goods and services to ensure that
customers pay the best price for goods and services;
and, requires the Corporation to submit copies of the
request for proposals, bidder responses, and other
information to the National Government Department of
Transportation, Communications and Infrastructure ("the
Department"). The Act also requires the Department to
review the service plans, rates, business relations,
response to customer trouble calls, and establish
standards for the reporting of telecommunications
income, expenses, assets, and service levels; and to
provide for a means by which customer complaints
regarding pricing and quality of services may be
reviewed. The Department is empowered to issue subpoenas
and assess penalties for non compliance. The Department
is directed to prepare an annual report that will be
submitted to the President of the Federated States of
Micronesia and Congress of the Federated States of
Micronesia on the state of telecommunication services
and ICT in the Federated States of Micronesia.

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

"Section 302. Review of Telecommunication Services,"
Plans, and Operations. The National Government Department of Transportation, Communication, and Infrastructure shall have the power to review and approve the services, plans, and operations of the Corporation to ensure that the services are provided in an effective, efficient, equitable, and responsible manner. The Department shall have the power and authority to review the nature of consumer complaints, including how complaints are registered and responded to; the rates and fares charged by the Corporation, including the rationale and formulas used for the rate calculations; the impacts on different classes and location of consumers, including public services functions such as education, health, emergency preparedness and response; the technology infrastructure; the efficiency and effectiveness of the operations of the services; details of the financial statement; the value of its physical property; the amount and disposition of its income and all its financial transactions; its business relations with other persons, companies, or corporations; and its compliance with all applicable laws.”

Section 4. Title 21 of the Code of the Federate States of Micronesia, as amended, is hereby further amended by enacting a new Section 303 to read as follows:
“Section 303. Reporting and Information. The National Government Department of Transportation, Communication, and Infrastructure shall have the power to require the Corporation to maintain records and provide documentation relating to the plans, operations, business, procurements, and other business and finance transactions. The Department shall have the authority to compel the Corporation to produce information on a timely basis for its review. The Department requests the issuance of a subpoena duces tecum to achieve the purpose of this section; and the issuance of subpoenas shall be issued in accordance with established rules and procedures in the Federated States of Micronesia which address the process for issuance of a subpoena duces tecum of documents and witnesses and shall establish penalties for non compliance.”

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

“Section 304. Annual Report on Telecommunications, Information and Communication Technology (ICT). The National Government Department of Transportation, Communication, and Infrastructure is directed to submit an annual report on the progress of telecommunications and ICT. The report shall be submitted to the President...
of the Federated States of Micronesia and Congress of the Federated States of Micronesia on November 30th of each year. The report shall provide a summary of the extent of services by customer class and coverage, customer complaints and resolution of problems, the finances, and other subjects identified in Sections 250 and 251. The annual report shall also provide an ongoing assessment of the use of ICT in education, health, and government.”

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

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

Section 7. Section 203 of Title 21 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

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

Section 3. This act shall become law upon approval by
the President of the Federated States of Micronesia or upon its becoming law without such approval. (1) to operate as the sole provider of all telecommunication services in Micronesia and between points in the Federated States of Micronesia and points outside thereof; (2) to operate and manage such services on the basis of commercially accepted practices, treating all users of telecommunications services on equitable terms in accordance with its published tariffs, and requiring all users to pay for the services provided; (3) to plan for the expansion and improvement of telecommunications facilities and services; (4) to the extent practicable, to expand telecommunications services to areas and communities in the Federated States of Micronesia that are presently un-served or poorly served and to improve the quality, reliability and variety of services available to all users in a manner consistent with commercial reasonableness and with promoting economic development, the advancement of education and health care, and the preservation of the cultural identity of the people of the Federated States of Micronesia; (5) to improve the telecommunications skills and promote the telecommunications training of Micronesian citizens who are employees of the Corporation;
(6) to establish, publish, and implement a structure
of tariffs and rates for telecommunications services
calculated to ensure that, to the extent practicable,
adequate and equitable charges are imposed for services
and that the tariff structure promotes the increased use
of telecommunications services;
(7) to invest all surplus revenues of the Corporation
in the expansion and improvement of telecommunications
facilities and services;
(8) to incur indebtedness for the purpose of expanding
and improving telecommunications facilities, to the
extent and on such terms as are deemed commercially
reasonable by the Corporation;
(9) to provide on a reimbursable basis emergency
telecommunications services to governments, individuals,
and entities in the Federated States of Micronesia; and
(10) to represent the Federated States of Micronesia
with regard to telecommunications matters in such
international organizations and fora and for a in which
the Federated States of Micronesia is represented,
subject to the policy guidance of the Government of the
Federated States of Micronesia.

Section 8. Title 21 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by enacting a
new Section 232 to read as follows:
“Section 232. Transparency, Reporting, and Information.

The Corporation shall operate on the principles of transparency as a public corporation. The Corporation shall operate on a policy of disclosure and transparency, and maintain and provide records and documentation of the Corporation’s activities. The Corporation shall comply with orders for the production of information, unless there is clear, compelling, and well-documented justification submitted to the Department in writing for not disclosing information. Such documentation shall be submitted to the Department for a determination on whether such information should be confidential and to become a matter of record. The Corporation shall further maintain and provide access to records that include, but are not limited to, customer complaints; trouble calls and responses; studies; rate and consumer information and rate projections; procurements; board agenda; documents provided by management and minutes that document major decisions; and other matters as may be required by law and good business practice.”

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

“Section 233. Procurement. The Corporation shall
establish good business rules and practices for when a sole-source, request for proposal (RFP), or invitation to bid (IFB) is appropriate. Should the corporation determine that a sole-source is justified, a copy of the justification and contract shall be submitted to the Department of Transportation, Communication, and Infrastructure (hereinafter the “Department”). The Corporation shall establish an open and competitive bidding process that provides for purchases of goods and services that exceed $20,000 from any supplier in the fiscal year and shall provide full and complete copies of the RFP of competitive bid to the Department at the time of issuance. The Corporation shall also submit a copy of issuance. The Corporation shall also submit a copy of procurement documentation, including a copy of all proposals and a copy of the awarded contract or purchase order at the time of execution. The Corporation shall provide a Notice to the Public for such procurements and an annual listing of all procurements of goods or services that exceed $10,000 to the Department.”

Section 10. Chapter 2 of Title 21 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new Section 234 to read as follows:

“Section 234. Application. This Chapter shall not
apply to the telecommunication of foreign governments, nor shall it apply to the FSM Government, State government or any political subdivision.”

Section 11. This Act shall become law upon approval by the President of the Federated States of Micronesia or upon becoming law without such approval.

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Date: 5/12/09 Introduced by: ___________________________ /s/ Joe N. Suka
Joe N. Suka (by request)