SECOND CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 1981

C.B. No. 2-51

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 Communications Act of 1981."

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

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

   (1) To operate as the sole common carrier of all telephone, telegraph, telex, radio, and other communications services within the Federated States of 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 communications facilities on equitable terms;

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

   (4) To expand communications services to areas and communities in the Federated States of Micronesia that are presently unserved or poorly served; to improve the quality, reliability, and variety of services available to all users in a manner consistent with commercial reasonableness; and to promote 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 skills and promote the training of
Micronesian citizens who are employees of the Corporation;

(6) To establish and implement a structure of rates and tariffs for communications services calculated to ensure that adequate and equitable charges are imposed for services and that the use of communications facilities is increased to the maximum extent reasonably feasible;

(7) To invest all surplus revenues in the expansion and improvement of communications facilities and services;

(8) To incur indebtedness for the purpose of expanding and improving communications facilities, to the extent and on such terms as are deemed commercially reasonable by the Corporation;

(9) To provide on a reimbursable basis emergency communications services to governments, individuals, and entities in the Federated States of Micronesia; and

(10) To represent the Federated States of Micronesia with regard to communications matters in such international organizations and fora in which the Federated States of Micronesia is represented, subject to the policy guidance of the Government of the Federated States of Micronesia.

Section 4. Other powers of the Corporation. To the extent that such services do not unreasonably impair the ability of the Corporation to operate and maintain its national and international communications services, the Corporation is authorized:

(1) To provide on a commercially reasonable basis such services relating to communications as may be requested by governments, individuals, and entities; and

(2), To establish and operate on a commercial basis, or on a
reimbursable basis if so requested by the Government of the Federated States of Micronesia, radio and television broadcast stations, in a manner consistent 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.

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

(1) To adopt, alter, and use a corporate seal;
(2) To adopt and amend bylaws governing the conduct of its business and the exercise of its powers;
(3) To sue and be sued in its corporate name;
(4) To acquire, in any lawful manner, real, personal, or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease, or otherwise dispose of such property;
(5) To acquire and take over in any lawful manner the business, property, assets, and liabilities of any entity, including the Government of the Trust Territory of the Pacific Islands relating to communications;
(6) To borrow or raise any sum or sums of money and to issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of communications facilities;
(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
4 (8) To do all such other things as may be deemed incidental to or
5 conducive to the attainment of the responsibilities of the Corporation.
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7 Section 6. Debts and obligations of the Corporation. Unless otherwise
8 expressly provided by law, the debts and obligations of the Corporation shall
9 not be debts or obligations of the Government of the Federated States of
10 Micronesia, nor shall the Government of the Federated States of Micronesia be
11 responsible for any such debts or obligations.
12
13 Section 7. Tax liability. The Corporation shall exist and operate
14 solely for the benefit of the public and shall be exempt from any taxes or
15 assessments on any of its property, operations, or activities. Nothing herein
16 shall be deemed to exempt employees and independent contractors of the
17 Corporation from tax liability for services rendered to the Corporation; and
18 the Corporation shall be liable for employers' contributions to the Social
19 Security System of the Federated States of Micronesia in the manner provided
20 by law.
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22 Section 8. Board of Directors.
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24 (1) Establishment. The affairs of the Corporation shall be
25 managed and its corporate powers exercised by a Board of Directors, herein-
26 referred to as "the Board."
27
28 (2) Composition. The Board shall be composed of five members
29 who shall be appointed by the President of the Federated States of Micronesia
30 with the advice and consent of the Congress. In addition, the Governor of
31 each State of the Federated States of Micronesia shall appoint one member of
the Board with the advice and consent of the respective State legislature. The
Vice President of the Federated States of Micronesia and the chief executive
officer of the Corporation shall serve ex officio as members of the Board with
full rights of membership.

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

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

(5) Vacancies. Each vacancy on the Board shall be filled for
the unexpired portion of the terms in the same manner as originally filled.
Upon a determination that a vacancy exists, the chairman or, in his absence,
the presiding officer of the Board shall issue a notice of vacancy to all
members of the Board and the parties responsible for filling the vacancy.
Any vacancy, occasioned by failure to make a nomination to the Congress or a
State legislature prior to the expiration of the previous term, or by
failure to submit a nomination to the legislature within 60 days of receipt
of notice that a vacancy exists, or within 10 days of receipt of notice of
rejection of nomination, shall be filled by nomination of the Congress or
the Speaker of the legislature, subject to advice and consent of the
Congress or the legislature or an authorized committee thereof.

(6) Removal.

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

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

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

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

(8) Regular meetings. Regular meetings shall be held not less
than once per calendar quarter, at such times and place or places as shall be determined by the bylaws.

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

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

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

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

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

Section 9. Management. There shall be a chief executive officer of
the Corporation, whose compensation, title, and term of office shall be determined by the Board. The chief executive officer shall be responsi-
ble for the management of the operations of the Corporation, and shall in accordance with the policies established by the Board, retain, direct, and terminate the services of employees.

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

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

Section 12. Supplemental budget requests. To the extent that the Corporation deems it necessary and advisable, the Corporation is authorized
1 to seek appropriations from the Congress of the Federated States of Micronesia and, to the extent approved by the President of the Federated States of Micronesia, grants from sources outside of the Federated States of Micronesia, of such funds as are necessary to supplement revenues to provide for the operations, maintenance, and expansion of the communications system of the Federated States of Micronesia.

Section 13. Accounts and records.

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

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

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

Section 14. Advisory council. The President of the Federated States of Micronesia shall appoint 15 members, and the Speaker of the Congress shall appoint 10 members, of a national advisory council on communications policy, at least three of whose members shall represent each State in the Federated States of Micronesia. The members of the council should be broadly representative of the actual and potential users of the communications
system and shall include representatives of the medical and educational
professions, civil aviation, maritime commerce, broadcasting, law
enforcement, and business. They may meet from time to time on a State-
by-State basis, and shall meet in a plenary session not less than once
every two years. They shall report to the President, the Speaker, and the
Corporation on their comments and recommendations regarding communications
services in the Federated States of Micronesia.

Section 15. Transition.

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

(2) The Corporation shall undertake to employ the employees of the
Trust Territory Government and the State governments who are employed in
good standing in communications services at the time that the Corporation
commences operation of communications services. Nothing herein shall require
the Corporation to hire such employees at positions commensurate with their
former responsibilities, or at the rate of wages previously received; however,
all said employees shall retain their rights to accrued sick leave and annual
leave not in excess of 100 hours.
Section 16. Effective date. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 5/28/88

Introduced by: Luke M. Tman
(By request)