

---

---

A BILL FOR AN ACT

To create a new chapter 3 of title 27 of the Code of the Federated States of Micronesia for the purpose of creating the Federated States of Micronesia Cable Corporation as a public corporation, and for other purposes.

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

1           Section 1. Title 27 of the Code of the Federated States of  
2 Micronesia, as amended, is hereby further amended by creating a  
3 new chapter 3 of title 27 entitled "Federated States of Micronesia  
4 Cable Corporation Act".

5           Section 2. Title 27 of the Code of the Federated States of  
6 Micronesia, as amended, is hereby further amended by adding a new  
7 section 301 to chapter 3 to read as follows:

8                   "Section 301. Short title. This chapter may be cited  
9 as the "Federated States of Micronesia Cable Corporation  
10 Act"

11          Section 3. Title 27 of the Code of the Federated States of  
12 Micronesia, as amended, is hereby further amended by adding a new  
13 section 302 to chapter 3 to read as follows:

14                   "Section 302. Definitions. For the purposes of this  
15 chapter and subsequent regulations, the following  
16 definitions shall apply unless the context otherwise  
17 requires:

18                   (1) "Board" means the Board of Directors appointed

---

1 under section 313;

2 (2) "CEO" means the Chief Executive Officer appointed  
3 under section 331;

4 (3) "Chairperson" means the Chairperson of the Board

5 (4) "Congress" means the Congress of the Federated  
6 States of Micronesia;

7 (5) "Corporation" means the Federated States of  
8 Micronesia Cable Corporation;

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

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

21 (8) "Officer" includes any employee of the  
22 Corporation vested with a power or duty in accordance  
23 with this Chapter;

24 (9) "Premises" means any piece of land and if there  
25 are buildings of any sort erected on that land, includes

---

1           those buildings, and also includes a ship or other  
2           vessel;

3           (10) "Product" or "Products" means Cable Service  
4           products and any other Cable or Telecommunications  
5           products that may now be available or that may become  
6           available in the future;

7           (11) "Secretary" means the Secretary of Finance and  
8           Administration of the Federated States of Micronesia;

9           (12) "State" means a State of the Federated States of  
10          Micronesia;

11          (13) "Works" or "Works of the Corporation" includes  
12          the whole of the Cable and Telecommunications systems  
13          and associated works owned, controlled or managed by the  
14          Corporation for any purpose associated with its  
15          functions under this Act."

16          Section 4. Title 27 of the Code of the Federated States of  
17          Micronesia, as amended, is hereby further amended by adding a new  
18          section 311 to chapter 3 to read as follows:

19                 "Section 311. Establishment of Corporation. The  
20                 Federated States of Micronesia Cable Corporation is  
21                 hereby established as a public corporation under the  
22                 laws of the Federated States of Micronesia. It may  
23                 hereinafter be referred to as "the Corporation"."

24          Section 5. Title 27 of the Code of the Federated States of  
25          Micronesia, as amended, is hereby further amended by adding a new

1 section 312 to chapter 3 to read as follows:

2 "Section 312. Independence. The Corporation shall not  
3 be deemed to be a government department, board or agency  
4 and as such is not subject to the laws governing the  
5 activities of the government including but not limited  
6 to title 52 (the Public Service System Act) and title 55  
7 (The Financial Management Act); provided, however, that  
8 nothing herein shall be deemed to waive the Corporations  
9 responsibility to comply with the Financial Management  
10 Act if allotted government funds."

11 Section 6. Title 27 of the Code of the Federated States of  
12 Micronesia, as amended, is hereby further amended by adding a new  
13 section 313 to chapter 3 to read as follows:

14 "Section 313. Board of Directors of the Corporation.  
15 The affairs of the Corporation shall be managed and its  
16 corporate powers exercised by a Board of Directors,  
17 hereinafter referred to as 'the Board.'"

18 Section 7. Title 27 of the Code of the Federated States of  
19 Micronesia, as amended, is hereby further amended by adding a new  
20 section 314(a) to chapter 3 to read as follows:

21 "Section 314(a). Appointment and Termination of  
22 Directors.

23 (1) The Board shall be composed of seven voting  
24 members as follows:

25 (a) one director appointed by the President of

---

1 the FSM with the advice and consent of Congress;

2 (b) one director appointed by the Governor of  
3 the State of Chuuk with the advice and consent of the  
4 Chuuk State Senate;

5 (c) one director appointed by the Governor of  
6 the State of Kosrae with the advice and consent of the  
7 Kosrae State Legislature;

8 (d) one director appointed by the Governor of  
9 the State of Pohnpei with the advice and consent of the  
10 Pohnpei State Legislature;

11 (e) one director appointed by the Governor of  
12 the State of Yap with the advice and consent of the Yap  
13 State Legislature; and

14 (f) two directors appointed by the President of  
15 the FSM with the advice and consent of Congress from a  
16 list of private sector candidates nominated by the four  
17 State governors.

18 (2) The persons appointed under subsection 314(a)(1)  
19 must have experience in public administration,  
20 telecommunications matters, finance, or Cable and  
21 internet distribution. At least one person appointed  
22 under subsection 314(a)(1)(f) must have special  
23 knowledge and capacity in the field of Cable and  
24 internet distribution.

25 (3) No person appointed under subsection 314(a)(1)

---

1 nor any member of his or her immediate family may  
2 possess any pecuniary interest in any business or entity  
3 which derives any part of its revenue from the  
4 distribution of Cable or telecommunications in the  
5 Federated States of Micronesia.

6 (4) The persons appointed under subsection 314(a)(1)  
7 hold office for a term of three years, provided,  
8 however, that the initial terms of office shall be  
9 determined by lot at the first meeting held by the Board  
10 with three members serving an initial term of one year,  
11 two serving an initial term of two years and two serving  
12 an initial term of three years. Provided further, that  
13 if no replacement has been appointed prior to the  
14 expiration of a director's term, he or she shall  
15 continue to serve for an additional period of 90 days or  
16 until a replacement is appointed, whichever is less. All  
17 members are eligible for reappointment.

18 (5) Vacancies on the Board shall be filled for the  
19 unexpired portion of the term in the same manner as  
20 originally filled.

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

25 Section 8. Title 27 of the Code of the Federated States of

---

1 Micronesia, as amended, is hereby further amended by adding a new  
2 section 314(b) to chapter 3 to read as follows:

3 "Section 314(b). Transitional Board of Directors.

4 Notwithstanding section 314(a), the President and the  
5 Governors of the States of Chuuk, Kosrae, Pohnpei and  
6 Yap shall have the authority to appoint a transitional  
7 Board of Directors, whose tenure shall not exceed six  
8 months. The transitional Board shall consist of five  
9 members whose appointments are not subject to advice and  
10 consent by Congress or any branch of a State  
11 Legislature. One of the members shall be chosen by the  
12 President of the FSM and one shall be chosen by each of  
13 the Governors of the four FSM States. Appointment to the  
14 transitional Board shall not preclude a permanent  
15 appointment under section 314(a) and a permanent  
16 appointment pursuant to subsection 314(1)(a, b, c, d, or  
17 e) shall immediately replace a person appointed to the  
18 transitional Board pursuant to this section. All other  
19 requirements of section 314(a) shall apply to the  
20 transitional Board. The initial meeting of the  
21 transitional Board may be called at any time after four  
22 of the five members have been appointed.

23 Section 9. Title 27 of the Code of the Federated States of  
24 Micronesia, as amended, is hereby further amended by adding a new  
25 section 315 to chapter 3 to read as follows:

---

1           "Section 315. Chairperson of the Board. The  
2           Chairperson of the Board shall be chosen by the Board  
3           members by majority vote and shall serve for a term of  
4           one year from the date of selection. The Chairperson may  
5           authorize, in writing, any director to exercise any  
6           power or perform any function conferred on the  
7           Chairperson by or under this Act."

8           Section 10. Title 27 of the Code of the Federated States of  
9           Micronesia, as amended, is hereby further amended by adding a new  
10          section 316 to chapter 3 to read as follows:

11          "Section 316. Meetings of the Board.

12                 (1) The Board must meet as often as may be necessary  
13                 for the performance of its functions, provided that it  
14                 shall meet no less than once per quarter each calendar  
15                 year and provided, further, that at least two such  
16                 meetings shall require the physical presence of the  
17                 directors at a single location.

18                 (2) At any meeting, the quorum of the Board is a  
19                 majority of the total directors appointed at the time of  
20                 the meeting.

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



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

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

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

8           Section 11. Title 27 of the Code of the Federated States of  
9           Micronesia, as amended, is hereby further amended by adding a new  
10          section 317 to chapter 3 to read as follows:

11          "Section 317. Transaction of Business Without Meeting.

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

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

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

19          Section 12. The Code of the Federated States of Micronesia,  
20          as amended, is hereby further amended by adding a new section 318  
21          to chapter 3 to read as follows:

22          "Section 318. Remuneration of Directors. Directors who  
23          are employees of the national government of the FSM or a  
24          State government shall receive no additional  
25          compensation for their service as members of the Board.

---

1           The compensation of members who are not Government  
2           employees shall be as determined by the Board and  
3           published in the minutes and annual report of the Board.

4           Section 13. The Code of the Federated States of Micronesia,  
5 as amended, is hereby further amended by adding a new section 319  
6 to chapter 3 to read as follows:

7           "Section 319. Disclosure of Interest.

8           (1) A director of the Board who has a direct or  
9           indirect personal interest in the outcome of any  
10          matter before the Board must disclose the interest to  
11          the Board.

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

14          (3) After making a disclosure under subsection (1),  
15          the director

16                  (a) in the case of a meeting, must withdraw from  
17          the meeting before the commencement of deliberations of  
18          the Board in respect of the matter referred to in  
19          subsection (1), although the director may be counted for  
20          the purposes of forming a quorum of the Board at the  
21          meeting; and

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

23          Section 14. The Code of the Federated States of Micronesia,  
24 as amended, is hereby further amended by adding a new section 320  
25 to chapter 3 to read as follows:

---

1           "Section 320. Minutes of Meetings and Business  
2           Transacted. The Board must keep minutes of all its  
3           meetings and business transacted under section 316 and  
4           317 in a proper form. All minutes of the meetings shall  
5           be made available to the public upon request."

6           Section 15. Title 27 of the Code of the Federated States of  
7           Micronesia, as amended, is hereby further amended by adding a new  
8           section 321 to chapter 3 to read as follows:

9           "Section 321. Delegation of Board's Powers.

10           (1) The Board may, from time to time, by notice in  
11           writing under the hand of the Chairperson, delegate to  
12           any person or committee any of the Board's powers under  
13           this Act.

14           (2) A delegation under this section may be made to a  
15           specified person or committee, or holder for the time  
16           being of a specified office or to the holders of offices  
17           of a specified class.

18           (3) A delegation may be made subject to such  
19           restrictions and conditions as the Board thinks fit, and  
20           may be made either generally or in relation to any  
21           particular case or class of cases.

22           (4) A person or committee purporting to exercise a  
23           power of the Board by virtue of a delegation under this  
24           section must, when required to do so, produce evidence  
25           of authority of the person or committee to exercise the

1 power."

2 Section 16. The Code of the Federated States of Micronesia,  
3 as amended, is hereby further amended by adding a new section 331  
4 to chapter 3 to read as follows:

5 "Section 331. Appointment of Chief Executive Officer.

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

8 (2) The CEO -

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

10 (b) shall have had not less than five years  
11 experience in the Cable industry, or the equivalent  
12 experience in a related profession;

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

15 (d) shall be responsible for the day to day  
16 operation of the Corporation;

17 (e) shall be responsible for the proper  
18 administration and management of the functions and  
19 affairs of the Corporation;

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

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

25 (3) The Board shall review the performance of the

---

1 Chief Executive Officer at least annually in light of  
2 the Corporation's goals and objectives, and may  
3 terminate the CEO at any time, for any reason.

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

8 Section 17. Title 27 of the Code of the Federated States of  
9 Micronesia, as amended, is hereby further amended by adding a new  
10 section 332 to chapter 3 to read as follows:

11 "Section 332. Appointment of Chief Financial Officer.  
12 The CEO shall appoint, with the concurrence of the  
13 Board, a Chief Financial Officer, for such term as shall  
14 be directed by the Board. He shall receive and disburse  
15 all funds of the Corporation. The Chief Financial  
16 Officer shall serve at all times under the direct  
17 supervision of the CEO."

18 Section 18. Title 27 of the Code of the Federated States of  
19 Micronesia, as amended, is hereby further amended by adding a new  
20 section 333 to chapter 3 to read as follows:

21 "Section 333. Appointment of Health and Safety Officer.  
22 The CEO shall appoint, with the concurrence of the  
23 Board, a Health and Safety Officer. The Health and  
24 Safety Officer, whose duties may be combined with those  
25 of another position, shall be responsible for ensuring

---

1 compliance with all health, safety and environmental  
2 laws and for developing, with input from the Board and  
3 the Executive Council, health, safety and environmental  
4 policies for the day-to-day operation of the  
5 Corporation."

6 Section 19. Title 27 of the Code of the Federated States of  
7 Micronesia, as amended, is hereby further amended by adding a new  
8 section 334 to chapter 3 to read as follows:

9 "Section 334. Appointment of Other Officers and Staff.  
10 To the extent consistent with this Title, the CEO may  
11 appoint, retain and terminate, on such terms and  
12 conditions as the Board may determine, such officers,  
13 employees, agents, or consultants as may be necessary or  
14 expedient for carrying out the functions and duties of  
15 the Corporation."

16 Section 20. Title 27 of the Code of the Federated States of  
17 Micronesia, as amended, is hereby further amended by adding a new  
18 section 341 to chapter 3 to read as follows:

19 "Section 341. Functions of the Corporation. The  
20 functions of the Corporation are -

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

24 (2) to secure contracts with Product suppliers who  
25 will provide the required Cable Products at the lowest

---

1 cost through competitive bidding to the extent  
2 practicable;

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

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

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

20 (6) to make safety, health and environmental  
21 considerations a priority in planning, and in the  
22 development of new Products and processes; to advise  
23 promptly, appropriate officials, employees, customers  
24 and the public of information on significant industry  
25 related safety, health and environmental hazards, and to

---

1           recommend protective measures;

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

5           (8) to do all those things which shall be necessary  
6           or incidental to the performance of its functions under  
7           this Chapter."

8           Section 21. Title 27 of the Code of the Federated States of  
9           Micronesia, as amended, is hereby further amended by adding a new  
10          section 342 to chapter 3 to read as follows:

11          "Section 342. Powers of the Corporation.

12           (1) In performing the functions authorized under this  
13           Chapter or under any other law of the Federated States  
14           of Micronesia, the Corporation shall have the capacity  
15           to exercise all powers normally exercised by a  
16           corporation, including, but not limited to, the  
17           following:

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

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

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

22                   (d) to acquire, in any lawful manner, real,  
23           personal, or mixed property, either tangible or  
24           intangible; to hold, maintain, use, and operate such  
25           property; and to sell, lease, or otherwise dispose of



---

1           such property;

2                   (e) to, subject to Section 351 and the laws of  
3           the Federated States of Micronesia, borrow or raise any  
4           sum or sums of money and to issue corporate bonds on  
5           such security and upon such terms as may from time to  
6           time be deemed necessary for the expansion and  
7           improvement of the Works;

8                   (f) to retain and terminate the services of  
9           employees, agents, attorneys, auditors, and independent  
10          contractors upon such terms and conditions as it may  
11          deem appropriate; and

12                   (g) to do all such other things as may be deemed  
13          incidental to or conducive to the attainment of the  
14          responsibilities of the Corporation.

15                   (2) Without limiting the generality of the  
16          powers given to it by subsection (1), and in addition to  
17          any other powers provided for by this Act, the  
18          Corporation shall have the following specific powers -

19                   (a) to acquire, lease, construct, maintain and  
20          operate facilities, plant, equipment and infrastructure  
21          associated with the supply of Product and the related  
22          activities of the Corporation; to erect Works, and  
23          install any necessary equipment, machinery and plant for  
24          any purpose related to the functions of the Corporation;

25                   (b) to acquire, lease and take over in any

---

1           lawful manner the business, property, assets, and  
2           liabilities of any preexisting entity relating to fuel  
3           storage and distribution;

4                   (c) to purchase, lease or otherwise acquire and  
5           maintain such personal and real property as the  
6           Corporation may from time to time deem necessary for the  
7           furtherance of its functions;

8                   (d) to do all such things as it deems expedient  
9           to enter into any contract for the sale, lease or  
10          purchase of property related to the performance of its  
11          functions;

12                   (e) to hire out plant or equipment of the  
13          Corporation and to enter into contracts for its  
14          operation and management;

15                   (f) to fix, charge and recover rates and fees  
16          for the supply of Product and for any other service  
17          provided by the Corporation;

18                   (g) to fix, charge and recover any surcharge on  
19          rates and fees for the supply of Product during any  
20          period when it may be reasonably anticipated that the  
21          supply of Product may be affected by a shortage of  
22          supply;

23                   (h) to ration or differentially allocate the  
24          supply of Product consistent with reasonable business  
25          practices and the needs of customers;

---

1                   (i) to recover the capital cost of supplying  
2                   Product or providing other services to particular  
3                   premises on such terms and conditions as the Corporation  
4                   determines;

5                   (j) to investigate any failure to comply with  
6                   this Act, or any act that effects the ability of the  
7                   Corporation to provide services under this Act, and to  
8                   take such steps as it considers necessary to secure  
9                   compliance with this Act or to prevent interference with  
10                  the activities of the Corporation; and

11                  (k) to set and to enforce standards for work  
12                  done by contractors and tradesmen relating to the supply  
13                  of Product and any other service provided by the  
14                  Corporation."

15                  Section 22. Title 27 of the Code of the Federated States of  
16                  Micronesia, as amended, is hereby further amended by adding a new  
17                  section 343 to chapter 3 to read as follows:

18                  "Section 343. Executive Council May Give Direction and  
19                  Require Information. The powers, functions and  
20                  discretion of the Corporation, its Board of Directors  
21                  and its officers shall be subject to the right and power  
22                  of the Executive Council to -

23                  (1) request, and obtain from the Corporation, such  
24                  returns, accounts, and other information as the  
25                  Executive Council may, from time to time, require, and

---

1 to institute any investigation, hearing, audit or other  
2 informational process as the Executive Council shall  
3 deem appropriate; and

4 (2) set the terms and timing of any subsequent  
5 divestment of the assets and operations of the  
6 Corporation or for the issuance of common shares of the  
7 Corporation; provided any such divestment must provide  
8 for the payment or satisfaction of all indebtedness  
9 incurred in the formation and operation of the  
10 Corporation for which the Government of the Federated  
11 States of Micronesia may be obligated or a full and  
12 complete release of the Government of the Federated  
13 States of Micronesia from liability for the repayment of  
14 such loans or indebtedness."

15 Section 23. Title 27 of the Code of the Federated States of  
16 Micronesia, as amended, is hereby further amended by adding a new  
17 section 351 to chapter 3 to read as follows:

18 "Section 351. Debts and obligations of the Corporation.

19 (1) Unless otherwise expressly provided by law, the  
20 debts and obligations of the Corporation shall not be  
21 debts or obligations of the Government of the Federated  
22 States of Micronesia or of a Government of a State, nor  
23 shall the Government of the Federated States of  
24 Micronesia or that of a State be responsible for any  
25 such debts or obligations.

---

1           (2) Unless an express assumption of liability shall  
2           be executed by the Corporation and approved by  
3           Resolution of Congress, the Corporation shall not  
4           assume, or be deemed to have assumed, the liability of  
5           any third party whose assets or operations are acquired  
6           by the Corporation, including, without limitation,  
7           liabilities arising from any breach of legal or  
8           contractual obligation or arising from violation of any  
9           law, rule, ordinance, regulation or decree.

10          (3) During such periods of time there remains  
11          outstanding any loans or obligations payable to the  
12          Government of the Federated States of Micronesia or any  
13          loans or obligations payable by the Corporation to any  
14          other party for which the Government of the Federated  
15          States of Micronesia may be a guarantor, borrower or  
16          otherwise obligated, no new loans or indebtedness  
17          (except credit extended pursuant to energy/fuel supply  
18          agreements) in excess of an aggregate amount of  
19          \$1,000,000 shall be incurred unless approved by  
20          Resolution of Congress."

21          Section 24. Title 27 of the Code of the Federated States of  
22          Micronesia, as amended, is hereby further amended by adding a new  
23          section 352 to chapter 3 to read as follows:

24                 "Section 352. Funds of the Corporation.

25                     (1) The funds of the Corporation consist of -

---

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

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

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

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

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

15                   (2) Subject to Section 351, the Corporation may  
16                   borrow such sums as shall be required by the Corporation  
17                   to meet any of its obligations or to perform any of its  
18                   functions.

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

23                   (4) The Corporation shall conserve its funds by  
24                   performing its functions and exercising its powers under  
25                   this Chapter so as to ensure that the total revenues of

---

1           the Corporation are sufficient to meet all sums properly  
2           chargeable to its revenue account including depreciation  
3           and interest on capital."

4           Section 25. Title 27 of the Code of the Federated States of  
5 Micronesia, as amended, is hereby further amended by adding a new  
6 section 353 to chapter 3 to read as follows:

7           "Section 353. Annual Budget and Costs of  
8           Administration.

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

13                 (a) for the last completed fiscal year, audited  
14          accounts indicating the prevailing rates and charges  
15          applicable to the Product, the amount of gross income  
16          generated by the Corporation, and the amount of all  
17          capital and operational expenditures made by the  
18          Corporation, together with the closing balance of all  
19          bank accounts maintained by the Corporation;

20                 (b) for the fiscal year in progress, a statement  
21          showing the estimated amount of gross income and the  
22          estimated amount of all capital and operational  
23          expenditures made by the Corporation, together with such  
24          summaries, schedules, and supporting data as the Board  
25          may deem necessary; and

---

1                   (c) for the next ensuing fiscal year, a budget  
2                   showing anticipated rates and charges for the Product,  
3                   the estimated amounts of gross income of the Corporation  
4                   and a statement of all estimated capital and operational  
5                   expenditures anticipated by the Corporation.

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

17                  (3) For any fiscal year during which the Corporation  
18                  is expected to have outstanding loan balances owing to  
19                  the Federated States of Micronesia or in which the  
20                  Federated States of Micronesia continues to be obligated  
21                  or liable for repayment of any portion of a loan or debt  
22                  of the Corporation, or if the proposed plan to finance a  
23                  budget deficit pursuant to subsection (2) above includes  
24                  a grant, loan, guarantee or subsidy from the Federated  
25                  States of Micronesia, the budget of the Corporation



---

1           shall be submitted to Congress for approval and no  
2           further loans or indebtedness shall be incurred by the  
3           Corporation until the budget has been approved by  
4           Resolution of Congress."

5           Section 26. The Code of the Federated States of Micronesia,  
6 as amended, is hereby further amended by adding a new section 354  
7 to chapter 3 to read as follows:

8           "Section 354. Accounts, Annual Report, and Audit.

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

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

16                 (b) all payments by the Corporation are  
17          properly authorized;

18                 (c) adequate control is maintained over the  
19          Corporation's property and the incurring of liabilities;

20                 (d) the accounts are kept in accordance with  
21          generally accepted accounting principles.

22          (2) Within three months after the end of each  
23          financial year, the Chief Financial Officer must prepare  
24          a report of the Corporation's activities during the  
25          financial year (referred to as the "Annual Report") and

---

1 shall submit a copy of the Report to the Secretary, the  
2 Board and to the Executive Council.

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

5 (a) a statement of financial performance, which  
6 shall include a balance sheet, operating statements, a  
7 statement of changes in financial position, and an  
8 analysis of changes in retained earnings;

9 (b) a statement summarizing the rates and  
10 charges prevailing throughout the prior year with  
11 respect to the Product and the outlook for such rates in  
12 the coming year;

13 (c) a statement concerning the condition of the  
14 Works and the capital expenditure plan of the  
15 Corporation;

16 (d) the CEO's one and five-year plans required  
17 pursuant to section 331 of this Chapter; and

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

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

- 
- 1 (a) the statement of financial performance and  
2 accompanying accounts of the Corporation for the year;  
3 (b) the most recent budget prepared pursuant to section  
4 353; and  
5 (c) the Annual Report for the year prepared in  
6 accordance with subsection (2).

7 Section 27. Title 27 of the Code of the Federated States of  
8 Micronesia, as amended, is hereby further amended by adding a new  
9 section 355 to chapter 3 to read as follows:

10 "Section 355. Tax liability. The Corporation shall be  
11 liable for the payment of any tax, assessment or  
12 contribution as may be required by law. Nothing herein  
13 shall be deemed to exempt employees and independent  
14 contractors of the Corporation from any tax liability  
15 for services rendered to the Corporation.

16 Section 28. Title 27 of the Code of the Federated States of  
17 Micronesia, as amended, is hereby further amended by adding a new  
18 section 361 to chapter 3 to read as follows:

19 "Section 361. Operating Standards. The Board, the CEO  
20 and the Health and Safety Officer of the Corporation  
21 shall be jointly responsible for developing and  
22 implementing written operational policies that shall set  
23 forth the manner in which the Corporation is to -  
24 (1) manage its business with the goal of preventing  
25 incidents and of controlling emissions and wastes to

---

1 below harmful levels, and to design, operate, and  
2 maintain facilities to this end and to respond quickly  
3 and effectively to incidents resulting from its  
4 operations;

5 (2) design and maintain facilities, establish  
6 management systems, provide training and conduct  
7 operations in a manner that safeguards people and  
8 property;

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

14 (4) specify precautions required in handling,  
15 transporting, using, and disposing of Product and to  
16 take reasonable steps to communicate those precautions  
17 to employees, customers, and others who might be  
18 affected;

19 (5) comply with all applicable environmental and  
20 industrial and product safety laws and regulations and  
21 to apply responsible standards where laws and  
22 regulations do not exist;

23 (6) furnish services that reliably meet responsible  
24 standards of performance, efficiency, and courtesy; to  
25 furnish accurate and sufficient information about its

---

1 products and services, including details of guarantees  
2 and warranties, so that customers can make informed  
3 purchasing decisions; and where the Corporation's  
4 products reach the ultimate consumer through independent  
5 parties, such as service station dealers and  
6 distributors, to actively encourage such parties to  
7 achieve standards comparable to those which have been  
8 established for the Corporation's own performance; and

9 (7) undertake appropriate reviews and evaluations of  
10 its operations to measure progress and to foster  
11 compliance with these policies."

12 Section 28. Title 27 of the Code of the Federated States of  
13 Micronesia, as amended, is hereby further amended by adding a new  
14 section 362 to chapter 3 to read as follows:

15 "Section 362. Contracts.

16 (1) The purchase of all supplies and materials and  
17 the construction of all works by independent  
18 contractors, when the expenditure exceeds \$20,000, shall  
19 be, by contract, let to the lowest responsible bidder  
20 whose offer adequately responds in quality, fitness, and  
21 capacity to the particular requirements of the proposed  
22 work or materials and supplies called for by the  
23 contract; provided that Product quality and reliability  
24 of Product supply shall be taken into account when  
25 evaluating Cable supply agreements; and provided further

---

1           that any initial Cable supply agreement and facilities  
2           operation agreement executed as part of a transaction by  
3           which the Corporation acquires the Works shall be exempt  
4           from such requirement. A notice requesting bids shall  
5           be published at least ten days before bids are received.  
6           The lowest responsible bidder shall be determined by the  
7           CEO using sound judgment and after consultation with the  
8           Board. The Board may reject any and all bids and re-  
9           advertise at its discretion.

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

16           (3) In case of major public calamity, or whenever it  
17           is in the interest of public safety or necessary to keep  
18           public utilities services operational, the Board may  
19           determine that the public interest and necessity demand  
20           the immediate expenditure of funds to keep the services  
21           operational or in a safe condition, and thereupon  
22           authorize the expenditure of such sums as may be needed  
23           without the observation of the provisions requiring  
24           contracts, bids or notices.

25           (4) Where reasonable, preference in the letting of

---

1 contracts shall be given to local contractors based on  
2 the procedure provided by Section 405, Title 55 of the  
3 FSM Code.

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

7 Section 29. Title 27 of the Code of the Federated States of  
8 Micronesia, as amended, is hereby further amended by adding a new  
9 section 363 to chapter 3 to read as follows:

10 "Section 363. Power to discontinue or ration supplies.

11 (1) In addition to any other powers of the  
12 Corporation under this Act, the Corporation may, without  
13 notice, discontinue, ration or limit any supply of  
14 Product or other service provided by it if it considers  
15 it necessary or desirable to do so -

16 (a) by reason of a disruption of international  
17 supplies;

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

19 (c) to facilitate any work done or to be done by  
20 the Corporation;

21 (d) to avoid or limit pollution; or

22 (e) for the conservation of strategic product  
23 reserves.

24 (2) As soon as possible after it has taken any action  
25 under sub-section (1) the Corporation shall give notice

---

1 of its action and indicate the likely duration of the  
2 discontinuance or rationing.

3 (3) The Corporation shall not be liable to any person  
4 for any loss or damage suffered by that person, and no  
5 person shall have a claim against the Corporation, where  
6 there is an increase, diminution or discontinuance in  
7 the supply of Product or any other service provided by  
8 the Corporation, or where there is a diminution in the  
9 quality of products, provided that such increase,  
10 diminution or discontinuance is caused by accident,  
11 other natural phenomenon or other unavoidable cause, by  
12 the Corporation acting in good faith in the proper  
13 exercise of its functions, or by the exercise by the  
14 Corporation of a power under this Act.

15 (4) Without limiting the foregoing, if any fees or  
16 charges in respect of any customer, including  
17 governments or governmental units of any type, remain  
18 unpaid thirty (30) calendar days after the date due for  
19 payment, the CEO may discontinue the supply of Product  
20 and services to that customer and may commence legal  
21 action to recover any rates, fees or charges that have  
22 fallen due for payment”.

23 Section 30. Title 27 of the Code of the Federated States of  
24 Micronesia, as amended, is hereby further amended by adding a new  
25 section 364 to chapter 3 to read as follows:



---

1           "Section 364. Transition; Employees. The Corporation  
2           may, at its discretion, undertake to hire employees in  
3           good standing of pre-existing entities involved in the  
4           business of Cable and internet distribution in the FSM,  
5           provided that the Corporation shall be under no  
6           obligation to do so with respect to any particular  
7           employee, nor shall it be required to hire employees at  
8           the same salaries or to fill the same positions as they  
9           may have enjoyed previously. In the event employees of a  
10          pre-existing entity are employed by the Corporation, all  
11          accrued benefits, sick leave, annual leave and other  
12          contractual obligations owed by the pre-existing entity  
13          to its employees shall remain the obligations of that  
14          entity and shall not be assumed by the Corporation,  
15          except to the extent directed in writing by the Board."

16          Section 31. Title 27 of the Code of the Federated States of  
17          Micronesia, as amended, is hereby further amended by adding a new  
18          section 365 to chapter 3 to read as follows:

19                 "Section 365. Issuance of Shares; divestment.

20                 (1) Upon the written instruction of the Executive  
21                 Council, the Corporation shall, through the filing of  
22                 such documents as may be required of privately-held  
23                 corporations, including, without limitation, Articles of  
24                 Incorporation, Bylaws and Share Affidavits, capitalize  
25                 itself through the issuance of common shares and, in

---

1           such event, the provisions of this Chapter shall be made  
2           subject to the terms of the Articles of Incorporation  
3           and Bylaws, and nothing in this Chapter shall be read as  
4           restricting the payment of dividends, the holding of  
5           annual shareholder's meetings, the conduct of audits for  
6           the benefit of shareholders, the election of Directors  
7           and such other corporate governance and shareholder's  
8           rights provisions as may be set out in the Articles of  
9           Incorporation and Bylaws and approved by the Executive  
10          Council.

11           (2) Upon the written instruction of the Executive  
12          Council, the Corporation shall, subject to the  
13          conditions set forth in Section 343, take all necessary  
14          steps to divest its assets and operations, in whole or  
15          in part, to such entity or entities as shall be directed  
16          by the Executive Council. The Board and officers of the  
17          Corporation shall take all necessary actions to  
18          effectuate such divestment, including the execution of  
19          documents and instruments, and the turnover of books,  
20          records and personal property as shall be necessary to  
21          transfer operations and assets of the Corporation to the  
22          entity or entities designated by the Executive Council.  
23          Upon written instruction of the Executive Council  
24          following such divestment, the Corporation shall wind up  
25          its affairs and cease operation."

1           Section 32. This act shall become law upon approval by the  
2 President of the Federated States of Micronesia or upon its  
3 becoming law without such approval

4

5 Date: 11/25/13

Introduced by: /s/ Peter M. Christian

6

Peter M. Christian

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24