

(S. B. 711)

**(No. 5-2018)**

(Approved January 20, 2018)

## **AN ACT**

To amend subsection (a) of Section 2 of Chapter I of Act No. 213-1996, as amended, known as the “Puerto Rico Telecommunications Act of 1996,” in order to declare Telecommunications as an essential public service by means of Public Policy.

### **STATEMENT OF MOTIVES**

On September 20, 2017, Puerto Rico was hit by Hurricane Maria, a category 5 hurricane that devastated the Island. As a result of this hurricane, the telecommunications systems in Puerto Rico, among others totally collapsed. The State Government in conjunction with the Federal Emergency Management Agency (FEMA) had to resort to satellite phones to maintain communications inside and outside of Puerto Rico.

The telecommunications industry took a backseat during the Emergency Preparedness and Response phases during this event because priority was given to other essential public services. The importance of telecommunications for the protection of life and property became evident once the Government began the recovery phase in the wake of this weather event.

The code of laws in effect in Puerto Rico, through Act No. 213-1996, declares as the Public Policy of the Government of Puerto Rico “to acknowledge the telecommunications service as one whose rendering pursues a high public interest within a competitive market.” In addition, the primary jurisdiction to regulate the telecommunications field was centered into a single government agency. 27 L.P.R.A. §§ 265(a) and 265(b).

Furthermore, Section 501(5) of the Puerto Rico Oversight, Management, and Economic Stability Act or “PROMESA,” defines the term “emergency” as follows:

(5) EMERGENCY.—The term “emergency” means any event or grave problem of deterioration in the physical infrastructure for the rendering of essential services to the people, or that endangers the life, public health, or safety of the population or of a sensitive ecosystem, or as otherwise defined by Section 1 of Act 76 (3 L.P.R.A. §§2328-55, 1931). This shall include problems in the physical infrastructure for energy, water, sewer, solid waste, highways or roads, ports, telecommunications, and other similar infrastructure.

Before, during, and after an emergency or natural disaster, telecommunications constitute an important tool for emergency management and public safety bodies. We must bear in mind the key role that telecommunications play in businesses and in our efforts to restore normalcy. Amid the economic crisis that the Island is currently undergoing, the lack of telecommunications may lead to a substantial loss of economic resources.

For all of the foregoing, this Legislative Assembly deems it convenient and necessary to declare Telecommunications as an Essential Public Service by means of Public Policy so that it be treated as all other essential public services such as the electric power and drinking water services.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Subsection (a) of Section 2 of Chapter I of Act No. 213-1996, as amended, is hereby amended to read as follows:

“Section 2.- Declaration of Public Policy.

It shall be the public policy of the Commonwealth of Puerto Rico to:

(a) Acknowledge the telecommunications service as an essential public service the rendering of which pursues a high public interest within a competitive market;

(b) provide universal service at a fair, reasonable, and affordable rate for all citizens;

(c) ....”

Section 2.- The Chairperson of the Board shall adopt and/or amend regulations as are necessary to enforce compliance with Section 1 of this Act within ninety (90) days after its approval.

Section 3.- Severability Clause.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the holding, order, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part thereof thus held to be null or unconstitutional. If the application to a person or to a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the holding, order, or judgment to such effect shall not affect, impair, or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application of this Act to the greatest extent possible, even if any part thereof or its application to any person or circumstance is rendered ineffective,

nullified, invalidated, impaired, or held to be unconstitutional. This Legislative Assembly would have approved this Act regardless of the determination of severability that the Court can make.

Section 4.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 5-2018 (S. B. 711)** of the **2<sup>nd</sup> Regular Session** of the **18<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend subsection (a) of Section 2 of Chapter I of Act No. 213-1996, as amended, known as the "Puerto Rico Telecommunications Act of 1996," in order to declare Telecommunications as an essential public service by means of Public Policy.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 28<sup>th</sup> day of March, 2019.

Orlando Pagán-Ramírez  
Director