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TABLE OF CONTENTS PAGE

FIRST SUPPLEMENT

LEGAL SUPPLEMENT

A.	ACTS — NIL	
B.	SUBSIDIARY LEGISLATION —	
	Regulations No. 7 of 2020 – The Telecommunications (Interconnection and Access) Regulations 2020 1893
C.	BILLS — NIL	

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LEGAL SUPPLEMENT — B

GUYANA

No. 7 of 2020

REGULATIONS

Made Under

THE TELECOMMUNICATIONS ACT 2016

(Act No. 18 of 2016)

**IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTIONS 80 AND 85 OF THE
TELECOMMUNICATIONS ACT 2016 I MAKE THE FOLLOWING REGULATIONS:-**

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

PRELIMINARY

1. Citation.
2. Interpretation.
3. Scope of application.
4. General principles.

PART II

FUNCTIONS AND POWERS OF THE COMMISSION

5. Functions and powers of the Commission.

PART III

OBLIGATIONS OF OPERATORS, SERVICE PROVIDERS AND PUBLIC UTILITIES

6. Obligation to provide interconnection.
7. Obligations with regard to equal access, dialing parity, and number portability.
8. Obligation to provide access.
9. Collocation in, and joint use of, facilities and utility installations.
10. Non-discrimination.
11. Confidentiality.

PART IV**REFERENCE INTERCONNECTION OFFERS**

12. Requirement to prepare and publish Reference Interconnection Offers.

PART V**INTERCONNECTION AGREEMENTS AND ACCESS AGREEMENTS**

13. Contents of an interconnection agreement and access agreement.
14. Negotiating, concluding and implementing interconnection agreements and access agreements.
15. Intention to deny a request for interconnection or access.
16. Modification, suspension or termination of interconnection agreements and access agreements.

PART VI**PRICES FOR INTERCONNECTION AND ACCESS**

17. Principles governing prices and cost recovery for interconnection and access.
18. Prices charged by dominant operators and service providers and by public utilities for interconnection and access.

PART VII**DISPUTE RESOLUTION**

19. Obligation to refer disputes relating to interconnection or access to the Commission.
20. Procedures for the resolution of disputes concerning interconnection or access.

PART VIII**OFFENCES AND PENALTIES**

21. Penalty for failure to provide, or to cooperate in the provision of, interconnection.
22. Penalty for failure to provide, or to cooperate in the provision of, access, collocation or joint use.
23. Penalties with regard to Reference Interconnection Offers.
24. Penalty for unlawful denial of interconnection, access, collocation or joint use.
25. Penalty for failure to provide information.
26. Penalty for failure to provide equal access.
27. Penalty for failure to provide number portability or dialing parity.
28. Penalty for failure to supply contact information.
29. Penalty for disobedience of order or other direction of the Commission.
30. General penalty.
31. Continuing offences.
32. Power to institute proceedings.

“interconnection agreement” means the agreement referred to in section 41(1)(d) of the Act with respect to interconnection, setting out the respective rights and obligations of the operators and service providers that are parties to the agreement;

“interconnection provider” means an operator or service provider that provides interconnection to an interconnecting operator or service provider or an operator or service provider that has been requested to provide such interconnection;

“interconnection service” means a service provided by an interconnection provider to an interconnecting operator or service provider linking the telecommunications networks or telecommunications services of the interconnection provider and the interconnecting operator or service provider to allow –

- (a) users of the telecommunications networks or telecommunications services of either to communicate with the users of telecommunications networks or telecommunications services of the other; and
- (b) the interconnecting operator or service provider to access the telecommunications networks and telecommunications services of the interconnection provider;

“interconnection link” means a transmission path connecting the point of interconnection with the telecommunications network or telecommunications services of an interconnecting operator or service provider;

“joint use” means any access, except collocation, to share facilities or utility installations by and among operators or by and between an operator and a public utility, as provided for in section 42 of the Act and these Regulations;

“point of interconnection” means a point on the telecommunications network of an interconnection provider where physical connection is provided to any interconnecting operator or service provider, to serve as a gateway between the relevant telecommunications networks and to enable the exchange of telecommunications services between or among the telecommunications networks so interconnected;

“transit services” means the interconnection of the telecommunication networks or the transmission and routing of the telecommunication services of an interconnecting operator or service provider over the telecommunications network or through the telecommunications

services of an interconnection provider.

No. 19 of 2016 (2) Any term used in these Regulations and not defined in them nor in the Act, shall have the same meaning as in section 3 of the Public Utilities Commission Act 2016.

Scope of application.

3. (1) In addition to the obligations of operators, service providers and public utilities under the Act, these Regulations shall apply to –

- (a) every operator and service provider with respect to the interconnection of its telecommunications networks and telecommunications services with the telecommunications networks of other operators and the telecommunications services of other service providers;
- (b) every operator and service provider with respect to access by other operators and service providers;
- (c) every operator with respect to access to its facilities by any public utility, and every public utility with respect to access to its utility installations by any operator;
- (d) every operator, service provider and public utility with respect to collocation and joint use;
- (e) every operator and service provider with respect to equal access, and every operator and service provider that is dominant with respect to dialing parity and number portability.

(2) The Commission may make rules, not inconsistent with the Act and these Regulations, that it deems necessary or advisable to supplement the provisions of these Regulations.

General principles.

4. (1) Operators, service providers and public utilities, shall cooperate with each other, in accordance with the Act, these Regulations and any rule or decision or order of the Commission in order to -

- (a) achieve integrated public telecommunications networks and public telecommunications services throughout Guyana and internationally;
- (b) promote efficiency, sustainable competition and fair trade in telecommunications, and
- (c) allow the users of any public telecommunications network or public telecommunications service to communicate with the users of any other public telecommunications network or public telecommunications service in a seamless manner and without unreasonable delay.

(2) Interconnection shall be established and provided in accordance with the Act, these Regulations and rules, decisions and orders of the Commission, and in accordance with interconnection agreements negotiated and agreed between the parties and approved by the Commission, or where agreement cannot be reached between the parties, in accordance with decisions and orders of the Commission.

(3) Access shall be established and provided in accordance with the Act, these Regulations and rules, decisions and orders of the Commission, and in accordance with access agreements negotiated and agreed between the parties and approved by the Commission, or where agreement cannot be reached between the parties, in accordance with decisions and orders of the Commission.

(4) Collocation and joint use shall be established and provided in accordance with the Act, these Regulations and rules, decisions and orders of the Commission, and in accordance with agreements negotiated and agreed between the parties and approved by the Commission, or where agreement cannot be reached between the parties, in accordance with decisions and orders of the Commission.

(5) Every operator and service provider shall provide the elements of interconnection, and every operator, service provider, and public utility shall provide the elements of access, collocation and joint use, to other operators, service providers and public utilities, as the case may be, in a manner that is at least equal in both quality and prices to that provided by such operator, service provider or public utility to its own business units or to any body corporate with which it is affiliated or to any other party to which the operator, service provider or public utility provides access, interconnection, collocation or joint use, as the case may be, and without regard to the types of users to be served, or the types of telecommunications or other services to be provided, by such other operator, service provider or public utility.

(6) Any Reference Interconnection Offer, interconnection agreement, access agreement and agreement for collocation and joint use shall be made publicly available by the Commission in accordance with section 41(3) of the Act and these Regulations.

(7) No operator or service provider shall abuse, to the detriment of its competitors, any dominant position or other special condition that it may enjoy, with regard to interconnection, access, collocation or joint use.

(8) Every operator, service provider and public utility that, as of the appointed day, is providing or receiving interconnection, access, collocation or joint use under any terms and conditions, whether or not the terms and conditions constitute a formal or binding agreement between the parties, shall continue to provide the interconnection, access, collocation and joint use under the terms and conditions, until such time as the parties have concluded an interconnection agreement, access agreement, or agreement for collocation or joint use under these Regulations.

PART II**FUNCTIONS AND POWERS OF THE COMMISSION**

Functions and powers of the Commission. No.19 of 2016

5. (1) The Commission shall encourage, promote and regulate interconnection, access, collocation and joint use in a manner consistent with the Act, the Public Utilities Commission Act and these Regulations.

(2) In addition to the its powers under the Act, the Public Utilities Commission Act, and these Regulations the Commission may, in order to ensure interconnection, access, collocation and joint use –

- (a) impose obligations on any operator, service provider or public utility consistent with the Act, the Public Utilities Commission Act, and these Regulations;
- (b) establish technical and operational conditions to be met by operators, service providers and public utilities, including requirements to ensure that interconnection, access, collocation and joint use be provided in a manner that is seamless, fair, reasonable, timely, equitable, non-discriminatory and transparent;
- (c) resolve the relevant parties' failure or inability to conclude and execute agreements with respect to interconnection, access, collocation and joint use; disputes regarding the effectiveness, interpretation, implementation, performance, modification, suspension or termination of such agreements; and disputes regarding equal access and number portability; and
- (d) act, on its own initiative or at the request of any party involved in a matter concerning interconnection, access, collocation and joint use, in order to carry out the objectives of and to ensure compliance with the Act, the Public Utilities Commission Act, these Regulations and the rules, decisions and orders of the Commission.

PART III**OBLIGATIONS OF OPERATORS, SERVICE PROVIDERS AND PUBLIC UTILITIES**

Obligation to provide interconnection.

6. (1) In addition to the provisions of Part VI of the Act, every operator and service provider shall, on a timely basis -

- (a) upon the written request of an interconnecting operator or service provider, provide direct and indirect interconnection to its own

telecommunications networks and telecommunications services for the telecommunications networks and telecommunications services of the interconnecting operator or service provider;

- (b) provide transit services at any technically feasible point in its telecommunications network to interconnecting operators and service providers;
- (c) refrain from refusing, obstructing or in any way impeding, other than for justified technical grounds stated in writing and approved by the Commission, the direct or indirect interconnection of or transit services to an interconnecting operator or service provider;
- (d) negotiate interconnection agreements in good faith and otherwise in accordance with the Act and these Regulations;
- (e) except as permitted under regulations 16(1) and 20(9), neither impair, modify, suspend or terminate interconnection or transit services once provided to an interconnecting operator or service provider unless authorised to do so by the Commission and agreed to by the interconnecting operator or service provider;
- (f) provide interconnecting operators and service providers with any access that is required to effect interconnection, including access to such technical interfaces, software, protocols and other technologies as are necessary for the inter-operability of telecommunications networks and telecommunications services; and
- (g) provide interconnection link capacity within its telecommunications network and between its telecommunications network and that of an interconnecting operator or service provider, to enable transmission, switching and routing of telecommunications over both telecommunications networks.

(2) Every interconnection provider that is dominant shall offer and provide to interconnecting operators and service providers –

- (a) the following elements of interconnection, at prices determined in accordance with regulations 10, 17 and 18(1)(a)(i)-
 - (i) access lines;
 - (ii) domestic switching;
 - (iii) domestic transmission;
 - (iv) international switching;

- (v) international transmission;
 - (vi) any other elements of its telecommunications networks as the Commission may determine; and
- (b) terminal equipment and the following telecommunications services, at prices determined in accordance with regulations 10, 17 and 18(1)(a)(ii)-
- (i) the termination of domestic fixed and mobile calls on its domestic fixed and mobile telecommunications networks;
 - (ii) the termination of international calls on its domestic fixed and mobile telecommunications networks;
 - (iii) transit services provided over its public domestic and international telecommunications networks;
 - (iv) interconnection links between the interconnection switch of the interconnecting operator or service provider and its own interconnection switch; and
 - (v) any other telecommunications services as the Commission may determine.

Obligations with regard to equal access, dialing parity, and number portability.

7. (1) Every operator and service provider shall provide equal access to consumers using the telecommunications services of other service providers in any manner as the Commission shall specify, including, upon the request of any interconnecting operator or service provider, the supply of details of number ranges that are hosted on each of its local exchanges, to enable the interconnecting operator or service provider to route calls to those number ranges directly on the interconnection link to the local exchange.

(2) Every operator and service provider that is dominant shall-

- (a) configure its telecommunications networks and telecommunications services to facilitate, and provide, dialing parity to other operators and service providers, including programming its switches and routers to enable carrier selection and pre-selection wherever applicable and taking any other steps specified by the Agency; and
- (b) configure its telecommunications networks and telecommunications services to facilitate, and provide, number portability between and among other telecommunications networks and take any other steps to facilitate and provide number portability specified by the

Commission.

(3) The obligations of operators and service providers to provide equal access pursuant to subregulation (1), and of dominant operators and service providers to effect dialing parity and number portability pursuant to subregulation (2), shall become effective upon the Minister's issuance of an order commencing the obligations.

(4) The Commission shall hear and determine disputes involving equal access and number portability between and among operators and service providers in the manner provided for in Part VII of these Regulations, the provisions of which shall apply *mutatis mutandis* to any such dispute.

Obligation to
provide access.

8. (1) In addition to the provisions of Part VI of the Act, every operator, service provider and public utility shall, on a timely basis –

- (a) upon the written request of an accessing operator, service provider or public utility, provide access on a disaggregated and unbundled basis to any facility or utility installation that it owns or controls, including the ability physically to access any such facility or utility installation and to install, operate, maintain, and repair any equipment or other element of a facility or utility installation;
- (b) refrain from refusing, obstructing or in any way impeding access to an accessing operator, service provider or public utility, other than for justified technical grounds stated in writing and approved by the Commission;
- (c) negotiate any access agreement in good faith and otherwise in accordance with the Act and these Regulations; and
- (d) except as permitted under regulations 16(1) and 20(9), neither impair, modify, suspend or terminate access once provided to an accessing operator, service provider or public utility unless authorised to do so by the Commission and agreed to by the accessing operator, service provider or public utility.

(2) Without limiting the generality of subregulation (1), --

- (a) each operator and service provider shall provide access to the following facilities and their functional equivalents-
 - (i) local loops and the facilities and services necessary to provide telecommunications services over local loops;
 - (ii) relevant software systems, including operational support systems;
 - (iii) number translation, signalling systems and signalling

networks (including signalling links and signalling transfer points), and systems offering equivalent functionality;

- (iv) fixed and mobile networks for roaming and other functions;
- (v) line side facilities, including the connection between an access loop termination at the main distribution frame and the switch line card;
- (vi) trunk-side facilities, including the trunk-side cross connect panel and a switch trunk card;
- (vii) trunk connection facilities, including the connection between trunk termination at a cross connect panel and a switch trunk card;
- (viii) inter-office transmission facilities;
- (ix) service control points;
- (x) all other physical and virtual infrastructure and network services; and

(b) each operator, service provider and public utility shall provide access to its tracks, conduits, ducts, poles, towers, wires and other elements of its facilities or utility installations, as the case may be, in connection with the transmission or other provision of any service for the purposes of joint use and collocation as provided in section 42 of the Act and these Regulations.

(3) Every operator and service provider that is dominant, and every public utility, shall offer and provide access at prices determined in accordance with regulations 10, 17 and 18(1)(b).

Collocation in, and joint use of, facilities and utility installations.

9. (1) Every operator shall provide collocation and joint use to other operators and to public utilities, and every public utility shall provide collocation and joint use to operators, on a timely basis, including physical access for the purpose of installing, operating, maintaining and repairing equipment and other facilities involved in the collocation or joint use, on a timely, disaggregated and unbundled basis and in accordance with the Act, these Regulations and the rules, decisions and orders of the Commission.

(2) Without limiting the generality of subregulation (1), –

- (a) an operator shall allow other operators to collocate its facilities in buildings housing any switches at which such operator is required to permit interconnection or access in accordance with these Regulations, and at any satellite earth station, radio tower, telecommunications equipment rooms in commercial or residential

buildings and any other location as the Commission may determine;
and

- (b) an operator shall provide to other operators and public utilities, and public utilities shall provide to operators, equipment space, power, site maintenance and security (subject to taking reasonable security precautions in connection with affording such other operator or public utility access to its own facilities) at each facility or utility installation, as the case may be, at which collocation or joint use is requested.

(3) A dominant operator may not restrict the type of facilities collocated in accordance with subregulation (2)(a), so long as it is of a type of telecommunications equipment customarily located in such type of locations.

(4) An operator may deny another operator or a public utility, and a public utility may deny an operator, collocation, joint use, or access to its facilities for such purposes only where it demonstrates to the satisfaction of the Commission that there is insufficient capacity in the relevant facility or utility installation, taking into account the reasonably anticipated requirements of the operator or public utility itself, as the case may be, or for reasons of safety, security, reliability of service or difficulty of a technical or engineering nature that it would be unreasonable to require the operator or public utility to overcome.

(5) The provisions governing access and access agreements in regulations 13, 14, 15 and 16 shall apply *mutatis mutandis* to requests for collocation and joint use and the content, negotiation, conclusion, implementation, modification, suspension and termination of agreements for collocation and joint use.

(6) Where operators, or operators and public utilities, are not able to reach an agreement regarding prices for collocation or joint use, the Commission shall establish prices, on a cost-oriented basis, and the other terms and conditions of an agreement that are in dispute, in accordance with the procedures in Part VII of these Regulations, the provisions of which shall apply *mutatis mutandis* to such any such dispute.

Non-discrimination.

10. Every operator and service provider shall offer interconnection, access, collocation and joint use to other operators and service providers, and every operator and public utility shall offer access, collocation and joint use to one another, on a non-discriminatory basis, and on an equitable basis in accordance with section 41(1)(c) of the Act and regulation 4(5), including with respect to prices, location, quality of service and other matters and as may be required by the Commission.

Confidentiality.

11. (1) Every operator, service provider and public utility shall maintain the confidentiality of, and refrain and protect from disclosure, any confidential, proprietary or other business information (“confidential information”), including information on existing and potential customers, market forecasts, plans for existing and new telecommunications services and telecommunications networks, and current and proposed business plans,

provided to it by another operator or service provider or by a public utility in the course of negotiating and performing an interconnection agreement, an access agreement, or an agreement for collocation or joint use.

(2) An operator, service provider or public utility that receives confidential information-

- (a) may provide it only to its employees, agents, and representatives who need to know the confidential information in connection with negotiating or performing an interconnection agreement, an access agreement, or an agreement for collocation or joint use;
- (b) shall take appropriate measures to ensure that the confidential information is not disclosed to any third party, including affiliates and contractors, except under agreements with the third parties that require them to maintain the confidentiality of such information; and
- (c) shall utilise the confidential information only for—
 - (i) the purpose of negotiating and performing an interconnection agreement, an access agreement, or an agreement for collocation or joint use;
 - (ii) the purpose of resolving disputes concerning interconnection, access, collocation and joint use; and
 - (iii) the other purposes permitted under section 29 of the Act.

(3) The confidentiality obligations under this regulation shall not apply to any information that is –

- (a) in the public domain at the time that it is disclosed by the operator, service provider or public utility or afterward comes into the public domain through no fault of the operator, service provider or public utility to which the information is disclosed;
- (b) disclosed with the written consent of the operator, service provider or public utility that provided the information;
- (c) required to be disclosed by any court or governmental authority of competent jurisdiction, subject to an appropriate confidentiality order.

PART IV

REFERENCE INTERCONNECTION OFFERS

Requirement to
prepare and publish
Reference
Interconnection
Offers.

12. (1) Every operator and service provider that has been determined to be dominant shall prepare a draft Reference Interconnection Offer and submit it to the Commission for review and approval within sixty days of the later of –

- (a) the grant of a licence to an operator or service provider that has been determined to be dominant in the licence;
- (b) the effective date of these Regulations; or
- (c) a determination by the Commission that an operator or service provider is dominant.

(2) Once approved by the Commission, a Reference Interconnection Offer shall constitute the draft interconnection agreement or draft access agreement, or both where applicable, that the dominant operator or service provider is obligated to provide to an interconnecting operator or service provider or an accessing operator, service provider or public utility pursuant to regulation 14(7)(b), and in the circumstances the provisions of these Regulations concerning interconnection agreements and access agreements shall apply in their entirety and to the same extent as if a draft agreement provided under regulation 14(7)(b) had not been based upon an approved Reference Interconnection Offer.

(3) A draft and approved Reference Interconnection Offer –

- (a) shall be consistent with –
 - (i) the Act and these Regulations;
 - (ii) the licence granted to the dominant operator or service provider; and
 - (iii) any applicable direction or decision regarding the form of a Reference Interconnection Offer that may have been issued by the Commission; and
- (b) shall contain the general, financial and technical information set out in regulation 13(1) or (2), or both where applicable, and any other information that the Commission may direct.

(4) Within seven days of the submission of a draft Reference Interconnection Offer to the Commission, the dominant operator or service provider shall–

- (a) post the draft Reference Interconnection Offer on its website;

- (b) at its own expense, publish a notice of the filing in a newspaper of national circulation in Guyana that includes the following information-
- (i) the dominant operator's or service provider's name and address;
 - (ii) a description of the telecommunications networks and telecommunication services to which the draft Reference Interconnection Offer applies;
 - (iii) the date on which the draft Reference Interconnection Offer was filed with the Commission;
 - (iv) a statement that the draft Reference Interconnection Offer can be downloaded and printed from its website and that copies of the Reference Interconnection Offer may be obtained from the dominant operator or service provider at a stated cost, which cost shall be no more than the actual duplication cost of the draft Reference Interconnection Offer;
 - (v) a statement that interested persons may submit written comments to the Commission within twenty-one days from the date of the notice; and
 - (vi) the address of the Commission to which written comments may be submitted.
- (5) (a) Upon the submission of a draft Reference Interconnection Offer, the Commission shall review it and, within seven days of its submission –
- (i) approve, or decline to approve, the Reference Interconnection Offer;
 - (ii) require, in writing, that the dominant operator or service provider make specified modifications to the draft Reference Interconnection Offer in order for approval to be granted; or
 - (iii) request, in writing, that the dominant operator or service provider provide any additional documents and other information as it deems necessary to the review process.
- (b) The dominant operator or service provider shall make any changes to the draft Reference Interconnection Offer specified by the

Commission pursuant to paragraph (a)(ii) and return the modified draft to the Commission within ten days of the date of the Commission's written requirements, and if the modifications are in accordance with the requirements, the Commission shall approve the Reference Interconnection Offer within thirty days.

(c) A dominant operator or service provider shall provide the Commission with any documents and additional information requested under paragraph (a)(iii) within ten days of the date of the Commission's written request, and within thirty days of its receipt of the documents and additional information, the Commission shall –

- (i) approve, or decline to approve, the Reference Interconnection Offer; or
- (ii) require in writing that the dominant operator or service provider make specified modifications to the Reference Interconnection Offer in order for approval to be granted,

and in the case of a notification to the dominant operator or service provider under this subparagraph (ii), the provisions of paragraph (b) shall apply *mutatis mutandis*.

(6) A dominant operator or service provider shall publish notice of its approved Reference Interconnection Offers in the manner required by the Commission and, within fourteen days of the approval of a Reference Interconnection Offer by the Commission, shall post the approved Offer on its website and make printed copies available to users upon written request and payment of the duplication costs, by cheque or other immediately available funds.

(7) A dominant operator or service provider shall submit an updated Reference Interconnection Offer to the Commission for approval –

- (a) on an annual basis, until the Commission modifies the requirement to do so; and
- (b) within twenty-one days of a written decision by the Commission adjudicating a dispute concerning a Reference Interconnection Offer under Part VII and requiring modifications in the Offer.

(8) With respect to the approval process and publication of the updated Reference Interconnection Offer under subregulation (7), the provisions of subregulations (4), (5) and (6) shall, *mutatis mutandis*, apply.

PART V**INTERCONNECTION AGREEMENTS AND ACCESS AGREEMENTS**

Contents of an interconnection agreement and access agreement.

13. (1) Interconnection agreements shall contain the following general, financial and technical terms and conditions, where applicable, except to the extent modified by the Commission in writing-

- (a) general conditions
 - (i) the details of the interconnection services offered, including ancillary, supplementary and advanced interconnection services;
 - (ii) the duration of the agreement and the procedure for its renewal;
 - (iii) the procedures for exchanging information related to interconnection between the parties;
 - (iv) the penalties for delay for providing interconnection once the agreement has been approved by the Commission and signed and brought into force by the parties;
 - (v) the procedures for making modifications or extensions to points of interconnection;
 - (vi) any agreements on confidential information in addition to but not in derogation of the requirements of section 29 of the Act and regulation 11;
 - (vii) provisions governing the ownership of and respect for any applicable intellectual property rights;
 - (viii) obligations of each party and compensation to be paid in case of a failure to perform any obligations under the agreement;
 - (ix) subject to Part VII of these Regulations, the procedures for attempting to resolve differences with respect to interconnection services, interconnection charges, quality of service and any other aspect of the agreement;
 - (x) the procedures to be followed in case of interruption, suspension or termination of interconnection; and
 - (xi) other commercial terms and conditions applicable to the elements of the interconnection services and interconnection

or considered by the Commission to be relevant to the agreement;

(b) financial conditions

- (i) pricing for interconnection, including one time connection fees, recurring usage charges and discounts where applicable, and the method used to determine the pricing, including the breakdown of costs and the formulae used;
- (ii) the formulae and parameters used to adjust prices due to reductions in costs of services and equipment and other facilities resulting from advances in technology;
- (iii) the method and frequency of payment, including the procedures for invoicing and settling of accounts;
- (iv) the sharing of the costs of interconnection services;
- (v) the additional charges to the interconnecting operator or service provider for interconnection at points other than those at which interconnection is permitted at no additional charge;
- (vi) the cost of collocation and joint use;
- (vii) the method for determining levels of traffic used in calculating usage charges;
- (viii) rates for, and the sharing of revenues from, international transit services; and
- (ix) any other financial and commercial information considered by the parties or the Commission to be relevant to the agreement;

(c) technical conditions

- (i) identification of the technically feasible points at which interconnection may be effected at no additional charge and the technical specifications, physical location and means by which interconnection shall be achieved at those points;
- (ii) the technical and operational characteristics and elements of the interconnection services and their constituent elements, including signaling, transport, transfer of calling line identification information and switching between the point of interconnection and users;

- (iii) in the case of dominant operators and service providers, a description of each disaggregated telecommunications network element and unbundled telecommunications service that shall be provided to the interconnecting operator or service provider;
- (iv) a schematic of the interconnecting telecommunications networks;
- (v) a description of the technical characteristics of the signals to be transmitted;
- (vi) capacity and service level requirements and remedies for any failure to meet such requirements;
- (vii) the characteristics, conditions and assigned responsibilities for installing, testing, operating, maintaining and repairing any telecommunications network equipment and other facilities that shall be used to provide interconnection;
- (viii) the methods and procedures for the provision of telecommunications services related to the telecommunications services to be interconnected pursuant to the agreement, including operational, administrative, maintenance, emergency, operator assistance, automated information, calling card and intelligent network services;
- (ix) the method for measuring, verifying, and controlling the length of time for national and international traffic, in units no greater than one second;
- (x) the procedures for detecting, reporting and repairing faults which affect both networks or which occur in one network and affect the other including an agreed acceptable delay in time for detecting and repairing the faults;
- (xi) the procedures for preventing fraud;
- (xii) measures for avoiding harmful interference and physical damage to the telecommunications networks of the parties and of third parties;
- (xiii) the method for forecasting and determining long term plans for expanding interconnection capacity, to accommodate growth in traffic;
- (xiv) the methods for establishing and measuring quality of

service and operation and administration of the interconnection service;

- (xv) the procedures for exchanging the information necessary for the proper functioning of the telecommunications networks and the maintenance of a satisfactory level of interconnection capacity;
- (xvi) the procedures for exchanging information related to changes in either telecommunications network that might impact either party, including procedures providing for sufficient time for the notification of, and receipt of objections or comments from, each party; and
- (xvii) any other technical terms and conditions considered by the parties or the Commission to be relevant to the agreement.

(2) Access agreements shall contain the following terms and conditions, where applicable, except to the extent modified by the Commission in writing-

- (a) general conditions
 - (i) the details of access being offered;
 - (ii) the duration of the agreement and the procedure for its renewal;
 - (iii) the procedures for exchanging information related to access between the parties;
 - (iv) the penalties for delay for providing access once the agreement has been approved by the Commission and signed and brought into force by the parties;
 - (v) the procedures for making modifications to and for terminating the agreement, if necessary;
 - (vi) any agreements on confidential information in addition to but not in derogation of the requirements of section 29 of the Act and regulation 11;
 - (vii) provisions governing the ownership of and respect for any applicable intellectual property rights;
 - (viii) obligations of each party and compensation to be paid in case of a failure to perform any obligations under the agreement;

- (ix) subject to Part VII of these Regulations, the procedures for attempting to resolve differences with respect to access and any other aspect of the agreement;
 - (x) the procedures to be followed in case of interruption, suspension or termination of access;
 - (xi) other commercial terms and conditions applicable to access; and
 - (xii) any other requirement considered by the Commission to be relevant to the agreement;
- (b) financial conditions
- (i) pricing for access including collocation or joint use of facilities, one time set up fees, recurring charges and discounts where applicable, and the method used to determine the pricing, including the breakdown of costs and the formulae used;
 - (ii) the formulae and parameters used to adjust prices due to reductions in costs of services, equipment and facilities resulting from advances in technology;
 - (iii) the method and frequency of payment, including the procedures for invoicing and settling of accounts;
 - (iv) the sharing of the costs of access;
 - (v) the method for determining levels of traffic used in calculating usage charges; and
 - (vi) any other financial and commercial information considered by the parties or the Commission to be relevant to the agreement;
- (c) technical conditions
- (i) a description of the facilities to which access is being provided;
 - (ii) details of any equipment and other facilities to be installed at the access provider's facility together with technical and operational characteristics of the equipment and facilities and details of security, safety, environmental and special requirements of such equipment and facilities;

- (iii) responsibilities for installing, testing, operating and maintaining any equipment at the facility and remedies for any failure to assume the responsibilities;
- (iv) the procedures for detecting, reporting and repairing faults in the equipment and at the facility or facilities to which access is being provided;
- (v) measures for avoiding harmful interference and physical damage to the equipment and facilities of the parties;
- (vi) the methods for forecasting and determining long term plans for expanding capacity and facilities, to accommodate growth in traffic;
- (vii) the methods for establishing and measuring quality of service and operation and administration of access;
- (viii) the procedures for exchanging the information necessary for the proper functioning of the equipment and facilities;
- (ix) the procedures for exchanging information related to changes in either telecommunications networks, facilities and equipment that might impact either party, including procedures providing for sufficient time for the notification of, and receipt of objections or comments from, each party; and
- (x) any other technical term considered by the parties or the Commission to be relevant to the agreement.

(3) Except as otherwise permitted by the Commission for good cause based upon the written request of the parties, an interconnection agreement and an access agreement shall stipulate a period not exceeding twenty-one days following its approval by the Commission within which the agreement shall be executed and come into force and interconnection and access shall be effected.

Negotiating,
concluding and
implementing
interconnection
agreements and
access agreements.

- 14.** (1) Every operator, service provider and public utility shall –
- (a) within fourteen days of the commencement date of these Regulations, or in the case of a new entrant into the telecommunications market, within thirty days of the date of the issuance of a licence to it, provide the Commission in writing with the name and contact information of-
 - (i) an officer or employee of the operator or service provider responsible for processing interconnection agreements; and

- (ii) in the case of operators and public utilities, an officer or employee responsible for processing access agreements; and
- (b) advise the Commission promptly in writing of any change in the designated contact person and the person's relevant contact information

(2) The Commission shall make the names of the individuals and their contact information provided in accordance with subregulation (1) available to any operator, service provider or public utility that requests the information in writing, and where an operator, service provider or public utility has not complied with subregulation (1), the Commission shall order the operator, service provider or public utility, in writing, to comply within five days.

(3) At any time –

- (a) an operator or a service provider may request in writing interconnection with or access to the facilities of another operator or service provider, and an operator and a public utility may request in writing access to one another's utility installations and facilities; and
- (b) any operator, service provider or public utility may request in writing information from any other operator, service provider, or public utility, as the case may be, regarding interconnection or access,

and the operator, service provider, or public utility to which any written request is sent shall cooperate with and respond to the request in good faith and in a timely manner, including within the periods of time prescribed in these Regulations.

(4) An interconnecting operator or service provider or an accessing operator, service provider or public utility wishing to interconnect with, or access the facilities of, an interconnection provider or an access provider, or an operator, service provider or public utility requesting information under subregulation (3)(b), shall send its written request to the contact person designated by the other operator, service provider or public utility, and at the address of the designated person, in accordance with the records of the Commission, and shall transmit a copy of the request to the Commission.

(5) A request for interconnection transmitted pursuant to subregulation (4) shall include, at a minimum, the following information-

- (a) the details of the interconnection that is required, including the proposed points of interconnection;
- (b) the date by which, and the length of time for which, interconnection is required;

- (c) to the extent known by the interconnecting operator or service provider, the details of any equipment that needs to be installed or additional equipment or other facilities required at the points of interconnection or to be interconnected, and the space, security, safety, environmental, and other requirements of interconnection;
- (d) the extent to which access to the facilities or premises of the interconnection provider is required by the interconnecting operator or service provider to install or maintain any equipment and other facilities;
- (e) traffic forecasts and other related information for no less than three years from the proposed date of interconnection, in sufficient detail to enable the interconnection provider to assess the potential impact of the interconnection on its facilities, telecommunications networks and telecommunications services, and their configuration, for the period of interconnection requested; and
- (f) any other requirements for a request for interconnection that the Commission may have prescribed as of the date of the request for interconnection.

(6) A request for access transmitted pursuant to subregulation (4) shall include, at a minimum, the following information-

- (a) the details of the facilities or utility installations to which, and the type of access for which, access is required;
- (b) the date by which, and the length of time for which, access is required;
- (c) to the extent known by the accessing operator, service provider or public utility, the details of any equipment and other facilities or utility installations to be installed at the facility or utility installation of the access provider, together with the details of the security, safety, environmental, and spatial requirements of the equipment and other facilities or utility installations;
- (d) the extent to which access is required by the personnel of the accessing operator, service provider or public utility to the facility or utility installation to install, maintain and use the equipment and other facilities to be installed; and
- (e) any other requirements for a request for access that the Commission may have prescribed as of the date of the request for access.

(7) An interconnection provider or an access provider shall –

- (a) within seven days of its receipt of a written request for interconnection or access, send a written acknowledgement of the receipt to the interconnecting operator or service provider or accessing operator, service provider or public utility and shall provide a copy of the receipt to the Commission; and
 - (b) within twenty-one days of its receipt of a written request for interconnection or access and unless it has already published, a Reference Interconnection Offer that has been approved by the Commission, provide to the interconnecting operator or service provider or the accessing operator, service provider or public utility a draft interconnection agreement or access agreement containing the proposed terms and conditions for interconnection or access in accordance with regulation 13(1) or (2), or both if applicable.
- (8) (a) Prior to providing the draft interconnection agreement or access agreement as required under subregulation (7)(b) and within seven days following receipt of the written request for interconnection or access, an interconnection provider or access provider may request, in writing to the interconnecting operator or service provider or accessing operator, service provider or public utility, with a copy to the Commission, any additional information that it may reasonably require in order to provide the draft interconnection agreement or access agreement, and the interconnecting operator or service provider or accessing operator, service provider or public utility shall provide the additional information within seven days of receiving the a written request.
- (b) Within fourteen days of receiving the additional information from the interconnecting operator or service provider or accessing operator, service provider or public utility, the interconnection provider or access provider shall provide to the interconnecting operator or service provider or the accessing operator, service provider or public utility the draft interconnection agreement or access agreement required under subregulation (7)(b).
- (9) The parties to an interconnection agreement or access agreement shall negotiate in good faith to reach agreement on the terms and conditions for interconnection or access and submit the proposed agreement to the Commission as promptly as possible, but in any event not later than thirty days after the provision of the draft interconnection agreement or access agreement under subregulation (7)(b) or (8)(b), whichever is applicable.
- (10) The failure of a prospective party to an interconnection agreement or access agreement to acknowledge a request for interconnection or access, to provide any additional information reasonably requested, to negotiate in good faith, or to submit the

agreed-upon terms and conditions of the agreement to the Commission within the thirty-day period provided for in subregulation (9), shall constitute a dispute to be resolved by the Commission under Part VII of these Regulations.

- (11) (a) Upon the submission of an interconnection agreement or access agreement by the parties, the Commission shall review the agreement and, within fourteen days of its submission-
- (i) approve, or decline to approve, the agreement;
 - (ii) require, in writing, that the parties make specified modifications to the agreement in order for approval to be granted; or
 - (iii) request, in writing, that the parties provide any additional documents and other information as it deems necessary to the review process.
- (b) The parties shall make any changes to the agreement specified by the Commission pursuant to paragraph (a)(ii) and return the modified draft to the Commission within ten days of the date of the Commission's written requirements, and if the modifications are in accordance with the requirements, the Commission shall approve the agreement within fourteen days of its receipt of the modified agreement.
- (c) The parties shall provide the Commission with any documents and additional information requested under paragraph (a)(iii) within ten days of the date of the Commission's written request, and within fourteen days of its receipt of the documents and additional information, the Commission shall –
- (i) approve, or decline to approve, the agreement; or
 - (ii) require, in writing, that the parties make specified modifications to the agreement in order for approval to be granted, and in the case of notification to the parties under this subparagraph, the provisions of paragraph (b) shall apply *mutatis mutandis*.
- (d) The Commission shall approve, or decline to approve, an interconnection agreement or access agreement by way of order directed to and binding upon the parties.
- (e) Once approved by the Commission, interconnection agreements and access agreements shall remain under the jurisdiction of the Commission until they are finally terminated in accordance with these Regulations, including all matters related to the execution,

performance, modification, suspension and termination of the agreements.

(f) At the request of a party or on its own motion, the Commission may –

- (i) hold any hearing it deems necessary or appropriate in connection with a determination concerning an interconnection agreement or access agreement; and
- (ii) extend any of the periods provided for in this subregulation for good cause and in the interest of accomplishing the goals set out in the Act and in regulation 4.

(12) Every interconnection agreement and access agreement approved by the Commission pursuant to subregulation (11) shall be executed by the parties and come into force, and interconnection or access shall be effected, within the twenty-one-day period provided for in regulation 13(3) or within any other time permitted by the Commission under that regulation, and the parties shall submit the executed agreement and written verification of the effectiveness of interconnection or access to the Commission within the seven days following such execution and the effectiveness of interconnection or access.

(13) The failure of a party to execute an interconnection agreement or access agreement approved by the Commission, or of an interconnection provider or access provider to effect operational interconnection or access, within the twenty-one days or a longer period approved by the Commission under subregulation (12) and regulation 13(3) shall constitute a dispute to be resolved by the Commission under Part VII of these Regulations.

Intention to deny a request for interconnection or access.

15. (1) Any operator, service provider or public utility that intends to deny a request for interconnection or access issued pursuant to regulation 14(4) shall notify the Commission, and the interconnecting operator or service provider or the accessing operator, service provider or public utility, in writing of its intention and the reasons therefor in writing within seven days of its receipt of the written request for interconnection or access or, if the operator, service provider or public utility has requested additional information pursuant to regulation 14(8)(a), within seven days of its receipt of the additional information.

(2) The Commission shall hear and determine an intention to deny a request for interconnection or access in the manner provided for in Part VII of these Regulations.

Modification, suspension or termination of interconnection agreements and access agreements.

16. (1) A party to an interconnection agreement or access agreement that wishes to modify, suspend or terminate the agreement shall send written notice thereof, supported by reasons, to the other party to the agreement and to the Commission, and pending the written approval of the proposed modification, suspension or termination, or any variation thereof, by the other party and the Commission, the agreement shall remain

in full force and effect.

(2) The parties to an interconnection agreement or access agreement shall negotiate in good faith to reach agreement on the modification, suspension or termination proposed in a written notification under subregulation (1), and shall submit any agreement they may reach to the Commission as promptly as possible, but in any event no later than sixty days after the other party's receipt of the notice required under subregulation (1).

(3) The procedures in regulation 14(11) and (12) shall apply, *mutatis mutandis*, to the Commission's consideration of a proposed modification, suspension or termination of an interconnection agreement or access agreement.

(4) The failure of a party to an interconnection agreement or access agreement to continue performing the agreement pending a decision of the Commission under subregulation (3), or to negotiate in good faith or to submit an agreed-upon modification, suspension or termination of the agreement to the Commission within the sixty-day period provided for in subregulation (2), or to effect an approved modification, suspension or termination in accordance with regulation 14(12), shall constitute a dispute to be resolved by the Commission under Part VII of these Regulations.

PART VI

PRICES FOR INTERCONNECTION AND ACCESS

Principles governing prices and cost recovery for interconnection and access.

17. (1) Prices for interconnection, access, collocation and joint use shall be fair and reasonable, non-discriminatory and equitable in accordance with regulation 10 and arrived at in a transparent manner.

(2) In addition to the requirement of subregulation (1), prices for access, collocation and joint use shall be offered on a disaggregated and unbundled basis.

(3) Subject to cost recovery in accordance with subregulation (5), where an interconnection provider or an access provider is unable to provide -

- (a) interconnection or access in the manner requested by an interconnecting operator or service provider or an accessing operator, service provider or public utility for justified technical grounds approved by the Commission under section 41(1)(a) of the Act and regulation 6(1)(c); or
- (b) collocation in, or joint use of, specific facilities or utility installations for reasons of insufficient capacity or safety, security, reliability of service or difficulty of a technical or engineering nature that it would be unreasonable to require the interconnection provider or access provider to overcome,

the interconnection provider or access provider shall take reasonable measures, in a timely

manner, to afford alternative solutions to the interconnecting operator or service provider or the accessing operator, service provider, or public utility, including alternative points of interconnection, virtual collocation, reconfiguring equipment space, optimising the use of existing space, finding adjacent space, or constructing new space, buildings and any other necessary facility or utility installation.

(4) Where an interconnection provider or access provider does not offer or provide an alternative solution pursuant to subregulation (3) that is acceptable to the interconnecting operator or service provider or the accessing operator, service provider or public utility, acting reasonably, and approved by the Commission, the Commission may order the interconnection provider or access provider to provide interconnection, access, collocation or joint use -

- (a) in the manner originally requested by the interconnecting operator or service provide or accessing operator, service provider or public utility; or
- (b) by making adjustments to its facilities, telecommunications networks, telecommunications services, or utility installations as the Commission deems necessary for the provisions of interconnection, access, collocation or joint use,

and --

- (i) the interconnection provider or access provider shall provide interconnection, access, collocation or joint use as directed by the Commission, including making any adjustments ordered by the Commission under paragraph (b), within such reasonable period of time as the Commission may direct; and
- (ii) the costs of any adjustments shall be determined and allocated as provided in subregulation (5).

(5) The reasonable costs of any adjustment to a facility, telecommunications network, telecommunications service or utility installation agreed to by the parties and approved by the Commission pursuant to subregulation (3) or ordered by the Commission pursuant to subregulation (4) shall be -

- (a) determined by the Commission in accordance with any methodology as it deems reasonable and appropriate and allocated in a manner that the Commission deems to be in the interest of the interconnection provider or access provider, on the one hand, and the interconnecting operator or service provider or the accessing operator, service provider or public utility, on the other, and -
 - (i) shall include a balancing test that takes into account the respective values derived from the adjustment by the interconnection provider or access provider and the interconnecting operator or service provider or the

accessing operator, service provider or public utility;
and

- (ii) may include an order of pre-payment by the interconnecting operator or service provider or the accessing operator, service provider or public utility to the interconnection provider or access provider where the Commission finds that such pre-payment would be reasonable under the circumstances; and
- (b) recoverable, as allocated by the Commission, by the interconnection provider or access provider that made the adjustments from the interconnecting operator or service provider or the accessing operator, service provider or public utility.
- (6) (a) The Commission may, where it deems appropriate, require that an operator, service provider or public utility effect accounting separation between different portions of its facilities, telecommunications networks, telecommunications services, and utility installations for purposes of interconnection, access, collocation and joint use.
 - (b) Every operator, service provider and public utility shall present to the Commission financial and other information concerning interconnection, access, collocation and joint use in the form and manner required by the Commission.
 - (c) The Commission may, for the purposes of carrying out its functions under these Regulations, order the ascertainment by appraisal of the value of any facility or other relevant property of any operator, service provider or public utility and, in that connection, may inquire into every fact which, in its judgement, has any bearing on that value, including the amount of money actually and reasonably expended in order to provide interconnection, access, collocation or joint use.
 - (d) All expenses in connection with any appraisal ordered by the Commission under paragraph (c), including all expenses incurred in connection therewith by the operator, service provider or public utility whose facilities or other property is the subject of the appraisal, may, where the Commission so directs, be charged to the capital account and added to the rate base of the operator, service provider or public utility.

Prices charged by
dominant operators
and service
providers and by

- 18. (1) In addition to the requirements of regulation 17(1) and (2) –
 - (a) every interconnection provider that is dominant shall offer and provide to interconnecting operators and service providers–

public utilities for interconnection and access.

- (i) disaggregated, cost-oriented prices for the interconnection elements specified in regulation 6(2)(a);
- (ii) unbundled, cost-oriented prices for the telecommunications services associated with interconnection specified in regulation 6(2)(b),

and the disaggregated, unbundled and cost-oriented prices for other interconnection elements and interconnection-related telecommunications services as the Commission may determine;

- (b) every operator and service provider that is dominant, and every public utility, shall provide access, collocation and joint use at prices that are cost-oriented.

(2) The Commission may develop, prescribe and apply methodologies, which may include benchmarking and network modeling, to be used by dominant operators and service providers for interconnection; by dominant operators and service providers and public utilities for access, collocation or joint use; and in determinations of the Commission with regard to operators, service providers and public utilities under regulation 9(6), to determine and demonstrate that they are complying with the requirement of pricing on a cost-oriented basis, and in so doing, the Commission shall apply the following principles-

- (a) costs shall be borne by the operator, service provider or public utility whose activity caused the costs to be incurred;
- (b) non-recurring costs shall be recovered through non-recurring charges, and recurring costs shall be recovered through recurring charges;
- (c) costs that do not vary with usage shall be recovered through flat charges, and costs that vary with usage shall be recovered through usage-sensitive charges;
- (d) an operator, service provider or a public utility subject to this regulation may offer prices that permit the recovery of a reasonable rate of return for that operator, service provider or public utility on the capital employed, attributable operating expenditures, depreciation and a proportionate contribution toward the fixed and common costs of the operator, service provider or public utility; and
- (e) the burden of proof that prices are derived from costs shall lie with an operator, service provider or public utility subject to this regulation.

(3) Upon the written request of the Commission, a dominant operator or service provider, a public utility, and a party subject to regulation 9(6) shall supply its costs with respect to any element of its telecommunications networks, facilities and telecommunications services, or in the case of a public utility, its utility installations, for the purpose of verifying that its prices for interconnection, access, collocation and joint use and other contributions or charges levied or allowed by the Commission, comply with this regulation.

PART VII

DISPUTE RESOLUTION

Obligation to refer disputes relating to interconnection or access to the Commission.

19. An operator, service provider and public utility shall promptly refer to the Commission in writing as provided for in regulation 20(1), or the Commission on its own motion and at any time may assert jurisdiction over, any dispute concerning interconnection, access, collocation or joint use, including any dispute concerning any –

- (a) failure of an operator, service provider or public utility to respond to a request for interconnection, access, collocation or joint use, or to negotiate an applicable agreement in good faith or in a timely manner;
- (b) express or implied refusal to provide, or intended denial of, interconnection, access, collocation or joint use, or to provide information requested by the other party under these Regulations;
- (c) failure by the parties to conclude an interconnection agreement, access agreement, or an agreement for collocation or joint use within the time specified in these Regulations;
- (d) failure of a dominant operator or service provider to comply with the Act, these Regulations, the requirements of its licence, or the rules or decisions of the Commission, or any other matter or dispute, concerning a Reference Interconnection Offer;
- (e) disagreement with respect to the price or any other term or condition for any element of interconnection, access, collocation or joint use;
- (f) other dispute regarding the conclusion, execution, effectiveness, interpretation, implementation, performance, modification, suspension or termination of an interconnection agreement, access agreement, or an agreement for collocation or joint use; and
- (g) disputes regarding equal access and number portability.

Procedures for the resolution of disputes concerning

20. (1) Promptly upon becoming aware of a dispute, an operator, service provider or public utility shall send written notice to every other operator, service provider

interconnection or access.

or public utility with whom the dispute has arisen of its intention to submit the dispute to the Commission for resolution, setting out (at a minimum) the issues in dispute and a proposal for its resolution, and shall send a copy of the notice to the Commission.

(2) If a dispute is not resolved by the parties within a period of fourteen days from the date of a written notice under subregulation (1), each party to the dispute shall be obligated to submit the dispute to the Commission in the manner provided in subregulation (3):

Provided that the failure of any party to a dispute to submit it to the Commission shall not divest the Commission of jurisdiction over the dispute.

(3) (a) At the direction of the Commission if it has already asserted jurisdiction over a dispute by written notice to the parties, or within three days after the expiration of the fourteen-day period provided for in subregulation (2) without a resolution to the dispute, each party to the dispute shall file a written submission with the Commission, and deliver a copy of the submission to the other party to the dispute.

(b) A written submission under paragraph (a) shall include –

- (i) the names and contact information of the parties to the dispute;
- (ii) a statement of facts;
- (iii) a summary of the issues in dispute and a copy of any draft agreement or other document that represents the respective parties' most recent positions with regard to the issues in dispute;
- (iv) the submitting party's position on the issues and, to the best of such party's knowledge, the position of the other party to the dispute;
- (v) a description of the parties' attempts to resolve the dispute;
- (vi) a summary of any issues that were previously in dispute but that have been resolved, including a description and any documentation of any such resolutions;
- (vii) the party's proposal for a resolution of the dispute; and
- (viii) any other matters that the submitting party deems relevant or that the Commission may direct.

- (4) (a) Within the fourteen days following its receipt of the written submissions required under subregulation (3), the Commission shall review the parties' respective positions, determine whether a hearing is necessary to resolve the dispute, and if it so determines, send a written notice to the parties of its determination.
- (b) If the Commission determines that a hearing shall be held, the written notice sent to the parties under paragraph (a) shall set out the date and time for the hearing, which date shall be no more than thirty days from the date of the written notice, and the Commission shall publish a notice of the date, time and subject matter of the hearing in a newspaper of general circulation in Guyana.
- (c) The parties to the dispute, in person or by counsel, and any other person having an interest in the subject matter of the dispute shall be entitled to appear at the hearing and be heard.
- (5) Without derogation of the time requirements under this regulation, the Commission may, either before or after any hearing it might hold under subparagraph (4)–
- (a) require the parties to produce any document and other information that it determines, in its discretion, are necessary to adjudicate the dispute;
- (b) during normal business hours and upon at least twenty-four hours written notice, enter the premises of a party and inspect equipment and other facilities and utility installations related to the interconnection, access, collocation or joint use at issue;
- (c) exercise the *subpoena* and other powers provided for in section 60 or other provisions of the Public Utilities Commission Act 2016 and any powers provided for in the Act; and
- (d) determine, on the basis of the proceedings provided for in this regulation, whether the dispute is not a *bona fide* dispute and, if it determines that the dispute is not, promptly issue an order in writing resolving the dispute, including any determination that a party to the dispute should make payment to another party to the dispute and the resolution of the dispute as provided for in subregulation (7).
- (6) Where, during the pendency of a proceeding under this Part, the parties reach a resolution to their dispute acceptable to the Commission, the Commission shall issue an order in accordance with such resolution and shall dismiss the proceeding.

No. 19 of 2016.

- (7) (a) The Commission shall finally determine, and issue an order in writing resolving, a dispute concerning interconnection, access, collocation or joint use within the thirty days following any hearing under subregulation (4) or, if no hearing is held, within thirty days of the written submissions of the parties under subregulation (3).
- (b) An order of the Commission under paragraph (a) may include interim terms and conditions upon which interconnection, access, collocation or joint use shall be provided pending the parties' conclusion of a final interconnection agreement, access agreement, or agreement for collocation or joint use consistent with the order, within a reasonable period of time to be provided for in the order.
- (c) The provisions of section 59(2), (3), (4) and (5) of the Public Utilities Commission Act shall apply *mutatis mutandis* to dispute resolution proceedings under this Part.

(8) In determining a dispute concerning interconnection, access, collocation or joint use, the Commission shall take into account the following factors –

- (a) the impact upon achieving the goals set out in the Act and in regulation 4;
- (b) the terms of any relevant agreements in force between the parties to the dispute;
- (c) the legitimate business interests of the parties, and the impact of the dispute and its resolution upon the respective parties and consumers;
- (d) the need to promote and safeguard competition;
- (e) any issues relating to safety, security and reliability;
- (f) the technical and engineering reasonableness of requiring the interconnecting operator or service provider or the accessing operator or public utility to use or install other facilities or utility installations, in light of the cost recovery mechanisms provided for in regulation 17(3), (4) and (5); and
- (g) other public interest considerations, such as the environmental impact of deploying certain types of facilities or utility installations by multiple operators or public utilities.
- (9) Pending the resolution of a dispute by the Commission and further

to the provisions of section 28(1)(m) of the Act and regulation 16(1), a party to the dispute shall refrain from impairing, modifying, suspending or terminating any interconnection, access, collocation, or joint use provided to any other party to the dispute, and from ceasing to perform an interconnection agreement, access agreement, or an agreement for collocation or joint use, without the prior written consent of the Commission and the other party, except that a party may, in respect of a billing dispute, collect from the other party any amounts that are not in dispute.

PART VIII

OFFENCES AND PENALTIES

Penalty for failure to provide, or to cooperate in the provision of, interconnection.

21. (1) An operator or service provider commits an offence if the operator or provider, without lawful excuse, fails to -

- (a) respond to a written request for interconnection from, or to provide a draft interconnection agreement to, another operator or service provider, within the required period of time;
- (b) negotiate an interconnection agreement, or any modification, suspension or termination thereof, in good faith or otherwise to cooperate in providing interconnection in any material particular;
- (c) submit an interconnection agreement, or any modification, suspension or termination thereof, or a dispute concerning interconnection, to the Commission, within the required period of time;
- (d) modify an interconnection agreement as required by the Commission in connection with the Commission's review and approval of the agreement or a modification, suspension or termination of the agreement;
- (e) execute an interconnection agreement, or any modification, suspension or termination of the agreement, approved by the Commission, or to effect interconnection within the required period of time;
- (f) submit an executed interconnection agreement, or a written verification of the effectiveness of interconnection, to the Commission within the required period of time;
- (g) continue performing an interconnection agreement pending the approval of a request for its modification, suspension or termination, or otherwise to perform the agreement, without the approval of the Commission and the other party to the agreement; or

- (h) make any adjustments to its facilities, telecommunications networks, or telecommunications services in the manner ordered by the Commission for the provisions of interconnection.

(2) Any operator or service provider that commits an offence under subregulation (1) is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

Penalty for failure to provide, or to cooperate in the provision of, access, collocation or joint use.

22. (1) An operator, service provider or public utility commits an offence if the operator, service provider or public utility, without lawful excuse, fails to -

- (a) respond to a written request for access, collocation or joint use from, or to provide a draft access agreement or an agreement for collocation or joint use to, another operator or service provider or a public utility, within the required period of time;
- (b) negotiate an access agreement or an agreement for collocation or joint use, or any modification, suspension or termination of the agreement, in good faith or otherwise to cooperate in providing access, collocation or joint use in any material particular;
- (c) submit an access agreement or an agreement for collocation or joint use, or any modification, suspension or termination of the agreement, or a dispute concerning access, collocation or joint use, to the Commission, within the required period of time;
- (d) modify an access agreement as required by the Commission in connection with the Commission's review and approval of the agreement or any modification, suspension or termination of the agreement;
- (e) execute an access agreement or an agreement for collocation or joint use, or any modification, suspension or termination of the agreement, approved by the Commission, or to effect access, collocation or joint use within the required period of time;
- (f) submit an executed access agreement or an agreement for collocation or joint use, or a written verification of the effectiveness of access, collocation or joint use, to the Commission within the required period of time;
- (g) continue performing an access agreement or an agreement for collocation or joint use pending the approval of a request for its modification, suspension or termination, or otherwise to perform the agreement, without the approval of the Commission and the other party to the agreement; or

- (h) make any adjustments to its facilities, telecommunications networks, telecommunications services or utility installations in the manner ordered by the Commission for the provision of access, collocation or joint use.

(2) An operator, service provider or public utility that, commits an offence under subregulation (1) is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

Penalties with regard to Reference Interconnection Offers.

23. Every dominant operator and service provider that fails to submit a Reference Interconnection Offer to, or to revise the Offer as required by, the Commission; or to publish or make any approved Offer available to users; or to update any Offer as required by these Regulations or by the Commission commits an offence and is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

Penalty for unlawful denial of interconnection, access, collocation or joint use.

24. Any operator or service provider that denies a request for interconnection, and any operator, service provider or public utility that denies a request for access, collocation or joint use, without lawful excuse, commits an offence and is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

Penalty for failure to provide information.

25. Any operator, service provider or public utility that fails to provide information requested by another operator, service provider or public utility, or by the Commission, as required by these Regulations, commits an offence and is liable on summary conviction to a fine of not less than one million dollars and not more than two million dollars.

Penalty for failure to provide equal access.

26. Subject to the issuance of the order pursuant to regulation 7(3), an operator or service provider that fails to supply the details of number ranges in the manner prescribed in regulation 7(1), or to comply with any other requirement specified by the Commission with regard to the provision of equal access, commits an offence and is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

Penalty for failure to provide number portability or dialing parity.

27. (1) Where an order has been issued pursuant to regulation 7(3) a dominant operator or service provider commits an offence if that operator or provider fails to -

- (a) configure its telecommunications networks or telecommunications services to facilitate or to provide number portability as prescribed in regulation 7(2)(b), or to comply with any requirement of the Commission with regard to number portability; or
- (b) programme its switches and routers as prescribed in regulation 7(2)(a), or to comply with any requirement of the Agency with regard to dialing parity.

(2) A dominant operator or service provider who commits an offence under subregulation (1) is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

Penalty for failure to supply contact information.

28. An operator, service provider or public utility that fails to supply the Commission with the name and contact information of the officer or employee responsible for processing interconnection agreements, access agreements or agreements for collocation or joint use, or to advise the Commission of any change in that information, commits an offence and is liable on summary conviction to a fine of not less than five hundred thousand dollars and not more than one million dollars.

Penalty for disobedience of order or other direction of the Commission.

29. Every operator, service provider or public utility that, without lawful excuse, fails or refuses to obey an order or other written direction of the Commission with regard to interconnection, access, collocation or joint use, or any matter incidental to it, commits an offence and is liable on summary conviction to a fine of not less than two million dollars and not more than three million dollars.

General penalty.

30. Every person who contravenes or fails to comply with any of the provisions of these Regulations, for which no penalty is specified, commits an offence and is liable on summary conviction to a fine of not less than one million dollars and not more than two million dollars.

Continuing offences.

31. If any offence of which a person is convicted under these Regulations is continued by such person after conviction, the person is guilty of a further offence and is liable to a fine of not less than five hundred thousand dollars and not more than one million dollars for every day on which the offence is continued.

Power to institute proceedings.

32. Without prejudice to the Minister's powers to institute legal proceedings under the Act or these Regulations-

- (a) the Commission has the power to institute legal proceedings under regulations 21 to 26, 27(a), and 28 to 31; and
- (b) the Agency has the power to institute legal proceedings under regulation 27(b).

Made this 23rd day of October 2020.



Hon. Brigadier Mark Phillips, M.P.
Prime Minister