IMPLEMENTING RULES AND REGULATIONS (IRR) FOR THE INTERCONNECTION OF AUTHORIZED PUBLIC TELECOMMUNICATIONS ENTITIES

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PREAMBLE

WHEREAS, the State recognizes the vital role of telecommunications in nation-building and economic development and in its desire to attain universal access, it shall promote the rapid expansion of telecommunications services in all areas of the Philippines in order to maximize the use of all available telecommunications facilities, and to ensure that every user of the public telecommunications shall have access to such facilities at a mandated standard of service and at reasonable costs;

WHEREAS, a general framework for interconnection of public telecommunications networks and public telecommunications services, regardless of the supporting technologies employed, is necessary in order to provide end-to-end inter-operability of services for users and access to all;

WHEREAS, fair, proportionate and non-discriminatory conditions for interconnection and inter-operability are key factors in fostering the development of open and competitive markets;

WHEREAS, it is important to lay down principles to guarantee transparency, access to information, non-discrimination and equality of access;

WHEREAS, with the approval and passage of Republic Act No. 7925, the Philippines has effectively liberalized the telecommunications services and has demonstrated its commitment to healthy and sustainable competition by allowing multiple operations by local service providers in partnership with firms of varying nationalities in most segments of the domestic and international telecommunications markets;

WHEREAS, the telecommunications environment is changing at an unprecedented rate driven by technological advancements, expansion of market boundaries and development of new business practices. These developments in the telecommunications sector necessitate the review of Memorandum Circular No. 9-7-93 and the formulation of a new regulatory framework for interconnection of the networks of public telecommunications entities to address the legal, economic, and technical constraints that continue to hamper the continued growth and development of the sector;

WHEREAS, pursuant to the provisions of R.A. 7925 and Executive Order No. 59, Series of 1993, mandating interconnection of all public telecommunications entities and vesting to the National Telecommunications Commission with the power to ensure a larger and more effective use of affordable telecommunications facilities and to maintain effective and healthy competition, the National Telecommunications Commission, by virtue of the powers vested upon it by law, does hereby promulgate the following implementing rules and regulations:

ARTICLE I
Applicability of the Provisions

SECTION 1. These rules shall be applicable to all duly authorized public telecommunications entities as

defined hereunder.

ARTICLE II
Definition of Terms

SECTION 2. The following words and phrases shall have the meaning assigned to them unless the context otherwise requires:

a. Access Charges — remuneration paid to a PTE by an interconnecting PTE for accessing the facilities and/or customer base of such PTE, which are needed by the interconnecting PTE for the origination, termination and/or transiting of all types of traffic derived from the interconnection.

b. Access Deficit — the difference between the required revenue to recover the cost of the line service and the total revenue from retail monthly services fees and the revenue from interconnection.

c. Access Provider — a PTE that is requested to provide access to its network, system, facilities and/or customer base by an access seeker.

d. Access Seeker — A PTE that requests access to the network, system, facilities or customer base of another PTE.

e. Access Service — service given by the access provider to enable the access seeker to avail of any or all of its services.

f. Billing Information — Appropriate network usage data of one PTE that is required by another PTE to facilitate customer billing with attendant acknowledgement and status reports and are exchanged between PTEs to process claims and adjustments.

g. Commission — the National Telecommunications Commission.

h. Customer Premises Equipment (CPE) — equipment located in the premises of a customer which is not part of but connected to the system or network of the PTE.

i. Cellular Mobile Telephone System (CMTS) — a wide area mobile radio telephone system with its own switch, base stations and transmission facilities capable of providing high capacity mobile telecommunications by utilizing radio frequencies that is neither a wireless local loop (WLL) service provided by a LEC or a trunk radio service ordinarily being provided by a trunked radio carrier.

j. Direct Access — the situation where a customer is directly connected to a telecommunications operator by a wire, fiber-optic or radio link to connect that customer to the public telecommunications network.

k. Enhanced Services — refers to a service which adds a feature or value to basic telephone service not ordinarily provided by a PTE such as format, media, conversion, encryption, enhanced security features, paging, internet protocol, computer processing and the like; provided that in the provision of such service, no law, rule, regulation or international convention to which the Philippines is a signatory, is circumvented or violated. For purposes of these rules and regulations, enhanced services shall also mean value-added services, and vice-versa.

l. Exchange — the entire plant and facilities used in providing telecommunications services to subscribers or customers in a calling (service) area.

m. Exchange Access — the offering of access to telecommunications services or facilities for purposes of origination or termination of telephone services between PTEs.

n. Grade of Service — the probability that a proportion of the calls will be lost or blocked in the system. The lower the proportion of loss or blockage, the better is the grade of service.

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o. Incoming Collect Calls — telephone calls originating from a subscriber or customer of a PTE and terminating to and paid by a subscriber or customer of the terminating PTE.

p. Incoming Paid Calls — telephone calls originating from a subscriber or customer of a PTE and paid to that PTE.

q. Indirect Access — is a situation where a customer's call is routed and billed through the network of a PTE even though the call originated from the network of another PTE.

r. Interconnection — the linkage, by wire, radio, satellite or other means, of two or more existing PTEs with one another for the purpose of allowing or enabling the subscribers or customers of one PTE to access or reach the subscribers or customers of the other PTE.

s. Interconnection Links or Facilities — facilities consisting of, but not limited to, equipment, devices and materials required to interconnect two telecommunications systems or networks of two (2) PTEs for the interchange of traffic between them.

t. Interconnect Services — network interconnect services, access services or access facility services.

u. Interconnect Usage Charges — the network usage charges applicable to direct and indirect interconnections between networks for call origination, call termination and call transit, as the case may be.

v. Inter-Exchange Carrier (IXC) — a PTE providing transmission and switching facilities which connect the networks of two (PTEs) that are not located within the same numbering plan area (NPA) or even if located within the same NPA, are not located within the common or overlapping service areas, enabling them to offer telecommunications services of any type, whether of voice, data or images, to each other's subscribers or customers.

w. International Gateway Facility (IGF) — a facility consisting of international transmission, switching network management facilities that serve as point of entry and exit in the Philippines of international traffic between a PTE's network and point/s outside the Philippines.

x. International Gateway Facility Operator — a telecommunications carrier providing IGF services.

y. Interoperability — the technical features of a group of interconnected systems, which ensure end-to-end provisions of a given service in a consistent and predictable way.

z. Local Calling (Service) Area — the province within which telecommunications services are furnished subscribers under specific schedule rates and without toll charges. For purposes of these rules, the present areas forming part of the numbering plan area "2" shall be considered a local calling (service) area of all PTEs presently authorized to provide telecommunications service in any portion of the said area.

aa. Local Calls — Calls originating and terminating from one and the same PTE, or two (2) separate PTEs within the same local calling area.

bb. Local Exchange Carrier (LEC) — a PTE providing transmission and switching of telecommunications services, primarily but not limited to voice-to-voice service, in a geographic area anywhere in the Philippines.

cc. Major Supplier — a PTE who has the ability to materially affect the market, directly or indirectly, for basic and/or enhanced telecommunications services as a result of 1) its control over essential facilities; and 2) use of its position in the market.

dd. Market Power — the ability to raise and maintain price above the competitive level and so earn above-normal returns. It also means the ability of an operator to act with a degree of independence from competitors and consumers.

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ee. Meet Point — a point of interconnection between two networks, designated by two PTEs, at which one PTE's responsibility begins and the other PTE's responsibility ends.

ff. Meet Point Interconnection Arrangement — an arrangement by which each PTE builds and maintains a network to meet point.

gg. National Toll Calls — calls that are (1) originating from one local calling (service) area and terminating to another calling area (service) or (2) originating from another PTE to a CMTS carrier, or vice-versa.

hh. Network Element — a facility or equipment used in the provision of telecommunications service including, but not limited to, features, functions, and capabilities that are provided by means of such facility or equipment, including but not limited to, subscriber numbers, database, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

ii. Network Interconnect Service — a service which supports the physical and logical linking of networks to allow the user of one network to communicate with the user of another network (e.g. call termination).

jj. Numbering Plan Area (NPA) — a geographic area in the country which has been given a specific area code by the Commission.

kk. Outgoing Collect Calls — telephone calls originating from a subscriber or customer of one PTE and paid by the subscriber or customer of the terminating PTE.

ll. Outgoing Paid Calls — telephone calls originating from and paid by the subscriber or customer of the originating PTE.

mm. Party — a party to an interconnection agreement or dispute.

nn. Physical collocation — offering by an access provider that enables an access seeker to: 1) place its own equipment to be used for interconnection or access to unbundled network elements within or upon an access provider's premises, (2) use such equipment to interconnect with an access provider's network facilities for the transmission and routing of telephone exchange services, exchange access service, or both, or to gain access to an access provider's unbundled network elements for the provision of telecommunications services, (3) enter those premises, to install, maintain, and repair equipment necessary for interconnection or access to unbundled elements, and (4) obtain reasonable amounts of space in an access provider's premises for the equipment necessary to interconnection or access to unbundled elements, allocated on a first-come first served basis.

oo. Point of Interconnection (POI) — a point of interconnection between two (2) telecommunications networks, designated by two PTEs at which one PTE's responsibility for service begins and the other carrier's responsibility ends.

pp. Point of Presence (POP) — a specific point as defined on the network where a point of interconnection shall occur in such a way that such interconnection between and among PTEs can be made efficiently and effectively.

qq. Provisioning — involves the exchange of information between PTEs where one executes a request for a set of telecommunications products and services or unbundled network elements or combination thereof from the other with attendant acknowledgements and status reports.

rr. Public Telecommunications Entity (PTE) — any person, firm, partnership or corporation, government or private, duly enfranchised by law and duly authorized by the Commission to engage in the provision of particular telecommunications services to the public for compensation.

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ss. Secretariat — Secretariat of the Commission.

tt. Service Performance Standard — a level of service which a telecommunications carrier, under normal conditions, is required to provide to its customers as representative of adequate services.

uu. Settlement Process — the payment system between interconnecting PTEs for jointly providing telecommunications services by which PTEs compensate each other for interconnection services.

vv. System-wide Exchange Line Capacity — total switch capacity of a LEC all over the country.

ww. Telecommunications — a process which enables a PTE to relay and receive voice, date, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design or for any purpose by wire, radio or other electromagnetic, spectral, optical or technological equipment.

xx. Telecommunications Equipment — equipment, other than customer premises equipment, used by a carrier to provide telecommunications services including software integral to such equipment.

yy. Telecommunications Network — transmission systems and, where applicable, switching equipment and other resources which permit the conveyance or routing of signals between defined termination points by wire, by radio, by optical or by other electromagnetic means.

zz. Telecommunications Services — services offered for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used, consisting wholly or partly in the transmission and routing of signals on authorized telecommunications networks.

aaa. Traffic Interchange - all communications passing through the interconnection facilities of two (2) PTEs.

bbb. Traffic Study — the process of recording usage measurements which can be translated into required quantities of equipment.

ccc. Type Acceptance — an administrative procedure by which a telecommunications equipment is accepted for use in the country. The equipment is evaluated on the basis of type approval tests done by reputable foreign approval or certification agencies.

ddd. Type Approval — an administrative procedure of technical tests and/or vetting applied to items of telecommunications equipment before they can be sold or interconnected with a telecommunications network.

eee. Users (End-Users) — refers to consumers using or requesting publicly available telecommunications services.

fff. Value-Added Services (VAS) — see enhanced services.

ggg. Value-Added Service Provider (VASP) — an entity which, relying on the transmission, switching and local distribution facilities of a PTE, offers enhanced services beyond those originally provided for by such carriers. A PTE duly authorized by the Commission to provide enhanced services shall likewise be deemed a VASP.

hhh. Virtual Collocation — an offering by an access provider that enables an access seeker to: (1) designate or specify equipment to be used for interconnection or access to unbundled network elements to be located within or upon the former’s premises, and dedicated to the latter’s use, (2) use such equipment to interconnect with an access provider’s network facilities for the transmission and routing of telephone exchange service, exchange access service or both, or for access to an access provider’s unbundled network elements for the provision of telecommunications service, and (3) electronically monitor and control its communications channels terminating in such equipment.

ARTICLE III

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General Principles of Interconnection

SECTION 3. The following are the general principles of interconnection:

a. Interconnection should enable subscribers or customers of two (2) PTEs to communicate with each other. (any-to-any).

b. Interconnection should be across interfaces of sufficient functionality (end-to-end interoperability).

c. Interconnection should directly follow the principle of fair compensation, compliance on commercial obligation (timely settlement, including payment) and service usage of interconnect facilities (no irregular and/or illegal traffic access or bypass).

d. PTEs should have equal responsibility to interconnect and should ensure that interconnection is carried out and in a swift and efficient manner (equal responsibility).

e. A request for interconnection should be satisfied in a timely fashion (Interconnection on request).

f. Interconnection should be prompt, efficient and seamless to the subscriber or consumer of both of the interconnecting PTEs (prompt, efficient and seamless).

g. Interconnection Agreements between PTEs should satisfy the government's telecommunications policies and its commitments or obligations under international agreements.

SECTION 4. It is mandatory for all duly authorized PTEs to interconnect with one another.

SECTION 5. Interconnection should be ensured to any technically feasible point in the network. Such interconnection must be provided by a PTE:

a. Under non-discriminatory terms, conditions (including technical standards and specifications) and charges and of a quality no less favorable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates; and

b. In a timely fashion, on terms, conditions (including technical standards and specifications) and cost-based charges that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components for facilities that it does not require for the service to be provided.

ARTICLE IV
General Provisions

SECTION 6. The objectives underlying these implementing rules and regulations are to:

a. Promote and protect the interests of telecommunications consumers and users;

b. Provide a comprehensive and transparent framework for the implementation of the interconnection policy of the State;

c. Promote the expansion, availability and usage of all telecommunications facilities and services in the country;

d. Promote and enhance fair and effective competition in the telecommunications industry;

e. Ensure end-to-end interoperability of services for users at all times;

f. Ensure that the user of any telecommunications network can be connected to the user of any other network at all times;

g. Establish fair and non-discriminatory provisions for interconnection, and to provide for access to information, transparency and equality of access to services; and

h. Ensure compliance with prescribed technical standards for the provision of interconnection.

SECTION 7. The interconnection between PTEs should result into a universally accessible and fully integrated nationwide telecommunications network for the benefit of the public.

SECTION 8. Within the same local calling area, PTEs should be interconnected on a direct basis, i.e., their networks are directly linked by an interconnection facility, unless interconnection through an IXC's network is more feasible or efficient; Provided, that no additional charges shall be passed on to end-users.

PTEs operating in two (2) different local calling areas must be interconnected through an IXC's network provided that if both PTEs are also IXCs, the interconnection shall be effected through their IXC networks.

Except as otherwise provided herein, all IXCs and IGF's shall interconnect with all other PTEs to provide subscribers or customers freedom of choice for access to toll call or long distance services; Provided, that all LECs shall interconnect with at least two (2) IXCs with nationwide coverage or capability; Provided further, that if the LEC is a major supplier, it shall interconnect, directly or indirectly, with all IXCs.

SECTION 9 . Interconnection among and between, PTEs shall ensure that:

a. A subscriber or customer of a PTE is able to call a subscriber or customer of any other PTE on a non-discriminatory basis;

b. A subscriber or customer of a PTE is able to access service provided by any other PTE either directly, or indirectly by transiting, if technically feasible, the system or network of another PTE; Provided, that no additional burden shall be passed on to end-users; and

c. The transmission of calls across and within the respective networks should be transparent and seamless to both calling and called parties.

SECTION 10. Obligations of All PTEs — In addition to the obligations and duties imposed by other laws, decrees, orders, rules and regulations, all PTEs are obliged:

a. To provide interconnection at cost-based charges in a manner sufficiently unbundled;

b. To negotiate in good faith with other PTEs regarding the terms and conditions of interconnection agreements;

c. To interconnect directly with the facilities and equipment of other PTEs to allow access to all types of services available to the customers of both parties;

d. To install network features, functions, and capabilities necessary for interconnection;

e. To provide non-discriminatory access to network elements at any technically feasible point on charges, terms and conditions that are just and reasonable;

f. To provide unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide telecommunications service;

g. To make available to other PTEs on a timely manner all data and other relevant necessary to ensure an efficient, timely and reliable interconnection; and

h. Not to abuse information obtained from competitors in relation to interconnection with the latter.

SECTION 11. Obligations of a Major Supplier — In addition to the obligation imposed in Section 10, a major supplier shall not commit acts constituting anti-competitive practices such as:

a. engaging in anti-competitive cross subsidization to its subsidiaries or affiliates;

b. engaging in anti-competitive cross-subsidization with other PTEs; and

c. other acts similar to the foregoing.

SECTION 12. An access provider must:

a. treat each party seeking interconnection on a basis that is non-discriminatory and no less favorable as to terms, conditions and rates than the treatment which the access provider affords to itself, its parent, subsidiaries, affiliates or to any other PTE to which it is providing a materially equivalent service;

b. treat each subscriber or customer of any interconnecting party on a basis that is non-discriminatory and no less favorable that the treatment which its affords to its own customers or the customers of any other PTE to which it is providing a materially equivalent service;

c. deal with each interconnecting party on a non-discriminatory basis in relation to the technical and operational quality of the services which its provides, including the quality, availability, time of provision, and technical standards and specifications;

SECTION 13. No PTE shall disconnect, disrupt or discontinue an interconnection or bar or in any manner impede the access by its subscribers or customers to subscribers or customers of a PTE interconnected with it without the prior written approval of the Commission.

ARTICLE V
Interconnection Agreements and Mandates

SECTION 14. Procedure for Negotiation, Arbitration and Approval of Interconnection Agreements, whether for basic or enhanced interconnection:

1) Agreements arrived at through Negotiation;

a. Subject to existing technical, commercial and operational rules or those which may hereafter be promulgated by the Commission, PTEs may, on their own initiative, negotiate and enter into an agreement for the interconnection of their networks or facilities.

b. An access seeker shall serve the access provider its request/demand for interconnection, furnishing the Commission a copy thereof with proof of service of said notice to the other party in accordance with the provisions of Paragraph VI of this section. The request shall contain the following:

1. Copies of the access seeker’s legislative franchise and CPCN/PA;

2. System or network configuration;

3. Proposed point/s of interconnection;

4. Trunk requirements and signaling system;

5. Proposed traffic routing and numbering scheme;

6. Traffic forecast and assumptions used for a period of at least five (5) years;

7. Traffic types and systems covered;

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8. Proposed interface;

9. Proposed implementation schedule;

10. List of existing exchanges which are suitable for interconnection including the number of lines available; and

11. Compensation scheme, proposed access charge of settlement procedure.

c. Within ten (10) days from receipt of the request or demand for interconnection, the access provider shall serve to the access seeker its counter-proposal or reply.

d. Within a period of ninety (90) days from the time of receipt of a copy of the notice by the Commission, the parties shall discuss, negotiate and execute an interconnection agreement and submit the same to the Commission for approval.

e. If by the date of the expiration of the interconnection agreement, the parties shall have failed to extend its terms or execute an entirely new one, the interconnection agreement except for the compensation scheme thereof shall be deemed extended and shall remain in full force and effect until the parties have extended the same or executed an entirely new agreement. The new and/or revised compensation scheme as agreed upon by the parties shall retroact to the date following the expiration of the old agreement.

f. The parties are encouraged to avail themselves of worldwide industry best practices for guidance in interconnection negotiations and development of procedures for operations and maintenance, and testing.

II. Mediation — In the interest of public service the Commission may, at its own initiative and at any stage in the negotiation, intervene in the same and mediate between the parties.

III. In cases where the two (2) PTEs refuse to negotiate for the interconnection of their networks, the Commission may, upon the complaint of any interested party or upon its own initiative, intervene and assume jurisdiction over the matter and immediately direct physical interconnection of the networks of the parties under such terms and conditions it may deem proper under the circumstances.

Nothing in this paragraph shall, however, prevent the parties to negotiate and execute an interconnection agreement and submit the same to the Commission for approval. For this purpose, the parties shall be given a period of ninety (90) days from receipt of notice of the filing of the complaint within which to negotiate and execute an interconnection agreement; Provided, that until an interconnection agreement is executed the interconnection mandate adverted in the immediately preceding paragraph shall remain in full force and effect.

IV. Approval by the Commission — Any interconnection agreement entered into by the parties through negotiation shall be submitted to the Commission for approval within ten (10) days from execution thereof. The Commission may disapprove the agreement on any of the following grounds:

a. The agreement or portion thereof is contrary to law, rules and regulations, public morals and safety;

b. The agreement is not consistent with national security, public interest and convenience and necessity;

c. The agreement does not contain the minimum provisions set forth in the immediately preceding section;

d. The agreement or a portion thereof discriminates against a PTE which is not a party to the agreement;

e. The compensation scheme or interconnection rates or charges agreed upon are unreasonable, not cost-based, and/or discriminatory; or

f. Other just and valid causes in the interest of public service and convenience.

The Commission shall notify the parties of its approval or disapproval of the interconnection agreement, or any of its terms and conditions, within thirty (30) days from its submission. Otherwise, it shall be deemed approved.

V. Compulsory Arbitration and Interconnection Mandate:

a. Proceedings for compulsory arbitration may be initiated motu propio by the Commission against the parties or by any formal petition by any interested person/s or local government unit where the parties operate should they fail to reach an agreement within the ninety (90) day period above-provided.

Immediately thereafter, the Commission shall assume jurisdiction over the case, immediately direct the provisional interconnection of the parties' networks and declare the terms and conditions, commercial, technical and otherwise, that shall govern the interconnection of the parties.

Immediately thereafter, the Commission shall assume jurisdiction over the case, immediately direct the provisional interconnection of the parties' networks and declare the terms and conditions, commercial, technical or otherwise, that shall govern the interconnection of the parties.

The Commission shall immediately notify the parties thereof and serve upon them copies of the petition or complaint with an order directing them to file their respective responsive pleadings within a non-extendible period of (10) days from receipt thereof.

The case shall be deemed submitted for resolution after the filing of the responsive pleadings, unless the Commission determines the need for the parties to file reply and rejoinder, in which case the matter the deemed submitted for resolution upon the filing of the latter pleading.

b. In all other cases the proceedings may be commenced by the filing of a verified petition by a party with supporting documents and papers and must contain the following:

1. the names of the parties;

2. unresolved issues and respective position of the parties with respect to those issues; and

3. other matters related to the interconnection that the parties may wish to submit for resolution.

The respondent shall file its answer to the petition within a non-extendible period of ten (10) days from receipt of a copy of thereof and provide additional information as it deems necessary for the expeditious resolution of the matter. After the lapse of ten (10) days, the case is deemed submitted for resolution regardless of whether or not the respondent was able to file its responsive pleading.

c. Within a period of thirty (30) days from the time it is submitted for resolution, the Commission shall resolve the petition through the issuance of an Interconnection Mandate ordering the parties to interconnect with each other under such terms and conditions set by the Commission. The resolution shall be final and immediately executory.

d. In the exercise of its duty to mandate interconnection among disputing telecommunications carriers, the Commission shall take into account the following, among others:

1. the interest and convenience of the public;

2. the necessity of interconnection;

3. the desirability of stimulating innovative market offerings and of providing users with a wide range of telecommunications services both at national and local level;

4. the availability of technically and commercially viable alternatives to the interconnection requested;

5. the desirability of ensuring equal access arrangements;

6. the need to maintain the integrity of the public telecommunications network and the interoperability of services;

7. the nature of the request in relation to the resources available to meet the request;

8. the relative market positions of the parties;

9. the promotion of competition; and

10. the need to achieve and maintain universal access.

e. In the exercise of its powers, the Commission shall exert all efforts towards the amicable settlement of all issues relating to interconnection.

VI. The interconnection agreement or interconnection mandate may be revised, amended or revoked by the Commission for just and valid cause after due notice and hearing in the interest of public service.

SECTION 15. The following shall be the minimum terms and conditions of interconnection agreements and interconnection mandates:

I. General Provisions

a. commercial and financial relations, and notably the terms of payment and the billing and collection procedures;

b. requirement concerning the exchange of information between the two operators and the corresponding frequency or periodicity of notice;

c. procedures to be followed in the event of alterations being proposed to the interconnection offer of one of the parties;

d. definition and limitation of liability and indemnity between operators;

e. procedures and legal remedies in case of degradation of service;

f. intellectual property rights, whenever applicable;

g. duration, conditions and mechanics of re-negotiation of interconnection agreements; and

h. provisions governing requests and/or offers for new types of interconnection.

II. Provisions on Interconnection Services Provided and the Corresponding Remuneration

a. provisions governing access to basic services: switching and, for public network operators, leased lines;

b. provisions governing access to supplementary services;

c. provisions governing billing services for third parties; and

d. provisions governing collocation.

III. Provisions on the Technical Aspect of Interconnection

a. measures implemented to allow users equal access to the various networks and services and equivalent formats;

b. measures to ensure compliance with the essential requirements;

c. comprehensive description of the interconnect interface;

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d. the quality of the services provided including, but not limited to availability, security, efficiency and synchronization; and

e. traffic routing arrangements

IV. Arrangements for the Establishment of Interconnection

a. provisions governing service provision: traffic forecasting arrangements and the implementation of interconnect interfaces, procedures concerning the identification of the termination points of leased lines and the time frame for provision;

b. the designation of the points of interconnection and the description of the physical arrangements for interconnection;

c. arrangements for the reciprocal sizing of interface equipment and the systems common to each network so as to maintain the quality of service provided for in the interconnection agreement as well as compliance with the essential requirements;

d. arrangements for testing the operation of interfaces and the interoperability of services; and

e. arrangement for clearing and recording faults.

ARTICLE VI
Measurement of Calls and Collection of Charges

SECTION 16. The parties shall measure both outgoing and incoming calls from their respective networks.

SECTION 17. Each party shall undertake the billing and collection of payments for all outgoing paid calls made by its own subscriber or customer and, if agreed upon by the parties, incoming collect calls made by a subscriber or customer of another party. Unless otherwise agreed upon, the billing and collection of payments for outgoing calls made by a subscriber or customer of a party but using the IXC or IGF facility of another party, shall be the responsibility of the party-IXC or party-IGF, as the case may be.

SECTION 18. The parties shall submit to each other settlement statements within sixty (60) days from the end of the month to which the statement pertains. The data required to be included in the statement shall be mutually agreed upon by both parties. In the event a party fails to submit the settlement statement within the said period, any available data for purposes of reconciliation and statement shall be used. The party who failed to submit the data shall have the right to contest or dispute the reconciled data within three (3) months from transaction month. Thereafter, said party shall be barred to dispute the data.

If the party with a receivable does not agree with the settlement statements of the other party, it shall send its own reconciliation statement to the latter within sixty (60) days from receipt of the statement.

A party with payable balance shall pay all undisputed calls within thirty (30) days from receipt of the billing statement sent by the party with receivable.

In cases where the statements of the parties do not reconcile, the following rules shall govern:

a. If the variance is four percent (4%) of the amount payable as reflected in the books of the payor or lower, the party with the (payable) balance shall pay the lower of the two amounts reflected separately in the respective reconciliation statement of the parties;

b. If the variance is more than four percent (4%) but not more than seven percent (7%) of the amount payable, the party with (payable) balance shall pay the lower of the two amounts reflected separately in the respective reconciliation statements of the parties plus fifty percent (50%) of the amount of the variance.

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c. If the variance exceeds seven percent (7%), the parties shall be given a period of thirty (30) days to settle the dispute. If the parties fail to settle their dispute, the same shall be referred to the Commission for arbitration.

d. In cases falling under (a) and (b), payment of the party with a balance shall be made within thirty (30) days from receipt of the reconciliation statement sent by the party with receivable; Provided, that the payment by the party with a balance shall be without prejudice to the right of the party with receivable to collect the remaining balance and for this purpose, the parties shall be given thirty (30) days to settle their dispute. If the parties fail to settle their dispute, the same shall be referred to the Commission for arbitration.

The proceedings mentioned in this section shall be summary in nature and the Commission shall resolve the matter within a period of thirty (30) days from the time the same is submitted for resolution.

Nothing in this Section shall prevent the parties from their settling their disputes among themselves by continuous reconciliation of their statements.

SECTION 19. Except as provided in the preceding section, the party with a (payable) balance shall settle the amount due within thirty (30) days after the reconciliation of the statements.

SECTION 20. For International Calls: The collection of payments from the Foreign Administrations for all incoming paid calls and outgoing collect calls shall be the responsibility of the IGF operator that received/sent said international paid calls from/to said Foreign Administration. The parties shall settle the interconnect charges for a particular month within thirty (30) calendar days from receiving the statements also for said particular month from all its foreign correspondents through a toll journal mutually agreed upon by both parties. Within fifteen (15) days from receipt of the toll journal, the party with a payable shall send to the other party a reconciliation statement reflecting the amount computed as payable, otherwise, the toll journal shall be deemed accepted by the party with a receivable.

SECTION 21. The modes of payments including the interests, penalties or surcharges for late payments shall be mutually agreed upon by both parties.

ARTICLE VII
Establishment and Location of Points of Interconnection

SECTION 22. POIs must be established and maintained at any mutually agreed technically feasible point/s in the carrier’s system and/or network or at point/s as may be mandated by the Commission.

SECTION 23. In the interconnection agreement or interconnection mandate between LECs and IXCs or IGF operators, the LEC shall be required to program and activate in its switches or system the access code of the IXC or IGF operators, as the case may be, as assigned by the NTC, to enable the LEC subscriber or customer to access the long distance carrier of his choice.

In the event that an LEC upgrades to stored program control (SPC) exchanges, the parties shall implement equal access preprogrammed option and still allow the subscriber at the time of his call freedom of selection of any other inter-exchange or international gateway operator.

SECTION 24. The access seeker must provide sufficient details to the access provider in relation to a POI/s and/or POP/s to enable the latter to evaluate the nature and extent of network conditioning that may be required and to estimate the cost of establishing the POI/s and/or POP/s.

SECTION 25. For IXC-to-IXC interconnection, each carrier shall bear its own port, data fill and switch costs to support a POI and the parties shall share the cost of the interconnect capacity equally.

ARTICLE VIII

Interconnection of the Systems

SECTION 26. The interconnection links and trunks needed to effect interconnection shall be provided by each of the interconnecting parties in accordance with their respective traffic requirements on 50-50 basis unless otherwise provided in these rules. However, other terminating facilities required for the interconnection that are to be installed at their respective premises shall be borne by each party.

SECTION 27 . In inter-exchange interconnections, the IXC shall provide interconnecting facilities up to the main distribution frame (MDF) of the LEC; Provided, that the latter has a total system-wide exchange line capacity not exceeding five thousand (5,000); Provided, further, that this provision shall apply only to LECs that do not offer any other services except VAS.

For LECs with more than five thousand (5,000) total system-wide exchange line capacity or offering telecommunications services other than VAS, the provisions of the immediately preceding section shall apply, except as may be otherwise agreed upon by the parties.

SECTION 28. The IGF operator shall provide interconnecting trunks up to the Main Distribution Frame (MDF) of the LEC where the IXCs cannot provide the required facilities. In case a LEC also is an IXC, the interconnection of the IGF operator to the LEC shall be through the latter's IXC facility.

If the IGF operator would want to interconnect directly with the LEC, the provisions of Section 27 shall apply.

SECTION 29. Unless specified by the Commission, the point of interconnection (POI) shall be as follows:

1.1 LEC to LEC

1.1.1 Single-switch LEC to Single-switch LEC within a local (calling) service area.

The LEC shall interconnect their local switches directly.

1.1.2 Single-switch LEC to Multi-switch LEC within a local (calling) service area.

The switch of the single-switch LEC shall be interconnected to at least one (1) tandem switch of the Multi-switch LEC.

1.1.3 Multi-switch LEC to Multi-switch LEC within a local (calling) service area.

At least one (1) tandem switch of both LECs shall be interconnected.

1.2 LEC to IXC

The LEC network shall be interconnected to the nearest point in the IXC network, provided that the POI is established within the LEC's service area.

1.3 LEC to IGF

The LEC network shall be interconnected to the IGF network directly or indirectly through the IXC network, provided that the POI is established within the LEC's service area.

1.4 LEC to CMTS

1.4.1 Single-switch LEC to CMTS

The LEC switch shall be interconnected to the CMTS network or through an IXC at the nearest point in the CMTS network, provided that the POI is established within the LEC's service area.

1.4.2 Multi-switch LEC to CMTS

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The tandem switch of the multi-switch LEC shall be interconnected to the CMTS network or through an IXC at the nearest point in the CMTS network, provided that the POI is established within the LEC's service area.

1.5 LEC to Trunk Radio Network (TRN)

1.5.1 Single-switch LEC to TRN

The LEC switch shall be interconnected to the TRN network or through an IXC at the nearest point in the CMTS network, provided that the POI is established within the LEC's service area.

1.5.2 Multi-switch LEC to CMTS

The tandem switch of the multi-switch LEC shall be interconnected to the TRN network or through an IXC at the nearest point in the TRN network, provided that the POI is established within the LEC's service area.

1.6 LEC to Radio Paging Network (RPN)

1.6.1 Single-switch LEC to the RPN

The switch of the single-switch LEC shall be directly interconnected to RPN.

1.6.3 Multi-switch LEC to the RPN. The RPN shall be interconnected to the nearest tandem or local switch of the multi-switch LEC.

1.7 IXC to IXC

The IXC networks shall be interconnected at all regions if technically feasible. Regions shall refer to political, autonomous and/or administrative regions.

1.8 IXC to IGF

The IGF shall be interconnected to the nearest point in the IXC network.

1.9 CMTS to CMTS

The CMTS networks shall be interconnected at all technically feasible points in their networks or through an IXC.

2.0 TRN to CMTS

Their networks shall be interconnected at all technically feasible points.

2.1 Others

Except as already provided above, two (2) PTEs operating in separate or non-overlapping service areas shall be interconnected through the facility of an IXC.

ARTICLE IX
Cost of Interconnect Facilities

SECTION 30 . Cost of Interconnect Facilities and Ownership

a. Unless otherwise agreed upon by the parties or provided in existing memorandum circulars, the parties shall jointly and equally provide and share the costs of the interconnect facilities necessary to interconnect the systems of both parties: Provided, that in an interconnection between an IXC and a LEC with less than five thousand (5,000) total system-wide exchange line capacity and does not offer or provide any other telecommunications services except VAS, the former shall shoulder the cost of interconnection.

b. As an alternative, the parties may agree that one party (advancing party) shall, at its own expense, advance the costs of the interconnect facilities.

c. Beneficial and legal ownership of the portion of the interconnect facilities at the premises of the other party (reimbursing party) shall vest upon full payment of half, or as maybe mutually agreed upon, of the costs of interconnection.

d. No fees shall be collected from a party for the collocation of its interconnection facilities within the premises of another party if such facilities are indispensable to effect or implement the interconnection of the parties' basic services.

ARTICLE X
Efficient Provisioning of Capacity

SECTION 31. Interconnection shall be effected for sufficient capacity and in sufficient number to meet all reasonable traffic demands for conveyance of messages between the systems of the PTEs involved, and shall be implemented within a reasonable time frame.

SECTION 32. The Commission in consultation with the industry shall develop codes of practice to be used in forecasting, ordering and provisioning of interconnection capacity.

SECTION 33. If warranted, a PTE may request another PTE to which it is interconnected, the provisioning of additional interconnection capacity. The request should contain the following information:

a. the number interconnection capacity required to meet additional demand;

b. the approximate date the additional interconnection capacity required must be provisioned or activated; and

c. a traffic study adverted in Sec. 40 below

SECTION 34 . All requests by a PTE for the provisioning or activation of additional interconnection capacity shall be filed with the Commission not later than the day the same was served on the other party.

SECTION 35. The access provider must provide the access seeker with the following information within ten (10) days from the time of receipt of the latter's request copy furnished the Commission:

a. whether it is willing to grant the request;

b. whether it will be able to do so within the time frames required by the access seeker; and

c. in the event the access provider is not willing or able to agree to the request or it is unable to do so within the time frame requested, specific and detailed justification for its unwillingness or inability.

SECTION 36. Where the access provider has informed the access seeker that is able to provide capacity, it must ensure that the system conditioning and provisioning procedures required to provide capacity is undertaken within the agreed period.

SECTION 37. The provisions of Section 14 insofar as they are not inconsistent with the provisions of this Article shall govern the negotiation, arbitration and approval of agreements for the provision or installation of additional interconnection capacity. However, if there is no agreement within the aforementioned ten (10) day period, the Commission shall intervene and decide on the matter.

SECTION 38 . A PTE provides reasonable advance notice to all other PTEs with which it is interconnected of planned changes to its telecommunications services of the latter.

SECTION 39 . Grade of service P.01 or one per cent (1%) blocking must be provided by both PTEs to each other starting at the point of interconnection and throughout their respective networks.

SECTION 40. Capacity —

a. The parties shall ensure that sufficient trunk and interconnect facilities are supplied at each point of interconnection to meet the prescribed grade of service for conveyance of traffic between the parties.

b. In the event of failure to meet the prescribed grade of service, both parties shall mutually agree to immediately implement solutions to achieve the required grade of service.

c. Both parties shall exchange traffic and facility forecasts including actual traffic measurements and parameters at least once every three (3) months to facilitate allocation of facilities for future requirements, as well as basic information such as the description of the existing and future network relevant to interconnection and list of exchanges (existing and planned) suitable for interconnecting including lines available.

d. Both parties shall provide additional circuits based on traffic measurements and studies to be conducted covering a period of thirty (30) days separately but simultaneously by both parties. If traffic data from both parties do not tally, the number of additional trunks to be provided shall be determined using agreed traffic data which shall in no case be less than half the difference between the traffic data. The additional trunks shall be placed in operation not later than fifteen (15) days from date of agreement.

e. LEC to LEC: If traffic data are not available, the initial interconnection trunk capacity shall be calculated using Erlang B Equation with the grade of service at P.01, and assuming that the traffic per subscriber line is 0.12 Erlang during busy hour.

f. Other types of Network Interconnection: The parties shall initially mutually agree on the number of interconnect trunks/subscriber lines. Additional trunks/subscriber lines shall be based on actual measured traffic referred to in Paragraph (c).

ARTICLE XI
Interconnect Service Charging Guidelines

SECTION 41. Interconnect service charges shall be set so as to promote efficient and sustainable competition for the benefit of the public, and promote economic and efficient network use.

SECTION 42 . Charges in Interconnection Agreements shall respect the principles of objectivity, transparency, reciprocity and non-discrimination. Undue imposition of excessive charges is not allowed.

SECTION 43. The pattern for interconnect service charges should match as closely as possible the pattern of underlying costs incurred such that when a fixed cost is incurred, a fixed charge should be imposed and when a usage cost is incurred, a usage charge should be imposed.

SECTION 44. All charges for interconnect services shall be transparent and unbundled so that the interconnecting PTE does not have to pay for any network elements, equipment, facility or component it does not need for interconnection.

SECTION 45. The specific charges for interconnect services shall be based on the long run incremental costs of providing the services. This requirement shall not be imposed until such time that the Commission prescribes a specific cost methodology.

SECTION 46 . The interconnect services shall be classified into basic or ancillary interconnection service:

Basic interconnection service refers to regular call conveyance services and include all origination and call

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termination of basic telecommunications services.

Ancillary interconnection service refers to the conveyance of traffic involving enhanced services, or to enable a party to offer other special or ancillary services such as Equal Access, Carrier Pre-subscription, Number Portability, Directory Inquiry, Operator-Assistance and Emergency Services, or use of certain network elements including call related data bases not essential for basic interconnection services. Provision of ancillary service interconnection shall be dependent on the service provider.

ARTICLE XII
Charges for Basic Interconnection Service

SECTION 47. The charges for basic interconnection service shall be by way of access charges for network interconnect usage on interconnected networks and shall consist of discrete charges, for call origination, call transiting and call termination, and a network interconnect subsidy for the LEC, if it be the other party to the interconnection but this subsidy shall not apply where the interconnected networks are both LECs. The LEC shall be entitled to such subsidy albeit it is at the same time an IGF and/or CMTS operator.

SECTION 48. IGF and CMTS operators (who are themselves required to provide LEC service) shall not be exempt from the requirement to provide a network interconnection subsidy when they interconnect with the local exchange of other carriers.

SECTION 49. The interconnect subsidy shall be prescribed by the Commission for access deficit, high cost service areas and universal access support as required.

SECTION 50. National and international long distance calls and CMTS calls originated and/or terminated by PTEs shall include the appropriate interconnect subsidy which shall be collected and remitted to the LECs.

SECTION 51. Where an access provider offers several services that are in competition with the services of the access seeker, the same interconnect service charges shall be imputed to the access seeker’s competing service through its internal transfer pricing arrangements between different categories of service.

ARTICLE XIII
Charges for Ancillary Interconnection Services

SECTION 52. The charges for ancillary interconnect services should be based on the costs of providing the specific interconnect services requested by the Access Seeker, which may include:

a. Non-recurring (one-time) and recurring (rental) costs of implementing the physical interconnection, such as engineering, specific equipment, signaling resources, compatibility testing and connection maintenance; and

b. Variable charges for ancillary and supplementary services, such as directory and operator assistance, data collection, billing, switched-based and advanced services whenever applicable.

ARTICLE XIV
Technical Specifications and Operational Requirements

SECTION 53 . The interconnecting parties shall maintain and operate their facilities in accordance with their respective obligations in their interconnection agreement duly approved or an interconnection mandate issued by the Commission and shall comply with the applicable technical standards specified in NTC MC 10-17-90 (Service Performance Standards) and NTC MC 10-16-90 (Technical Standards) and such other standards that the Commission shall hereafter prescribe.

SECTION 54. The interconnecting parties shall:

a. cooperate and provide facilities in their respective system for testing;

b. agree on standard procedures on trouble reporting, testing and see to it that the information are shared between them to facilitate the efficient routing of messages over all points of connection;

c. exchange traffic and facility forecasts on a semi-annual basis to facilitate allocation of facilities for future requirements, as well as provide basic information such as description of the existing and future network relevant to interconnection and list of exchanges, existing and planned, suitable for interconnection including the number of lines available; and

d. provide additional circuits based on traffic measurements and studies to be conducted covering a period of thirty (30) days separately but simultaneously by both parties. The parties shall compare study results and agree on the number of circuits to be added.

Misrouted or unauthorized traffic shall not be considered in the computation for determining the required number of circuits.

In the event that the parties cannot reach an agreement, the matter shall be brought by any or both of the parties to the Commission for arbitration.

The implementation of the additional circuits shall be completed within the next fifteen (15) days after the number of circuits has been agreed upon.

In the event that the interconnection trunks are underutilized with reference to the mandated grade of service, the excess trunks may be deactivated within fifteen (15) days from receipt of notice in writing from either party; Provided, that a party requesting disconnection of underutilized trunks can show by convincing evidence that either the disconnected circuits are urgently needed for other purposes by the requesting party or that the measured traffic and the historical growth of the affected circuit has shown a consistent record of under-utilization over a period of at least six (6) months;

SECTION 55 . PTEs who do not meet the prescribed service performance and technical standards shall be required to upgrade their facilities to comply with national standards within a period of time as may be determined by the Commission taking into consideration the attendant circumstances.

ARTICLE XIV
Access to Network Elements on Unbundled Basis

SECTION 56. An access provider may provide to an access seeker, for a provision of a telecommunication service, access to its network elements on an unbundled basis.

SECTION 57. The provision of access to unbundled network elements includes the provision of a connection to an unbundled network element independent of the access provider’s providing interconnection to the access seeker.

SECTION 58. An access provider shall provide an access seeker access to an unbundled network element, along with all of the unbundled elements features, functions, and capabilities, in a manner that allows the requesting PTE to provide any telecommunications service that can be offered by means of that network element.

SECTION 59 . An access provider may provide, on such commercial terms and conditions that are just, reasonable and non-discriminatory, any technically feasible method of obtaining

interconnection or access to unbundled network elements at a particular point upon request by an access seeker.

SECTION 60. Unless otherwise agreed upon by the parties, access to unbundled network elements shall be linked

through “meet point” interconnection arrangements, provided that in case the access provider is a LEC, the point of interconnection shall be established within the LECS’s service area.

SECTION 61. A previously successful method of obtaining interconnection or access to unbundled network elements at a particular premises or point on the network of the access provider is substantial evidence that such method is technically feasible in the case of substantially similar network premises or points.

SECTION 62. An access provider that denies a request for a particular method of obtaining interconnection or access to unbundled network elements on the access provider’s network must prove to the Commission that the requested method of obtaining interconnection or access to unbundled network elements at that point is not technically feasible.

SECTION 63. An access provider shall not be required to provide for physical collocation of equipment necessary for interconnection access to unbundled network elements at its premises if it demonstrates to the Commission that physical collocation is not practical for technical reasons or because of space limitations. In such cases, the access provider shall be required to provide virtual collocation, except at points where the access provider proves to the Commission that virtual collocation is not technically feasible. If virtual collocation is not also technically feasible, the access provider shall provide other methods of interconnection and access to unbundled network elements to the extent technically feasible.

SECTION 64. Existing agreements for the provision of access to network elements on a bundled basis shall continue to be in force and effect until such time that the Commission shall have reestablished rates and settling procedures which will provide for the economic viability of PTEs and a fair return of their investments.

ARTICLE XV
Standards of Physical and Virtual Collocation

SECTION 65. Subject to fair and non-discriminatory compensation arrangements, and to the extent technically feasible an access provider shall provide physical collocation and virtual collocation to access seekers on a first come-first served basis; Provided, that in case the compensation arrangements for collocation are not contained in the interconnection agreement, the delay in the negotiation for and execution of compensation arrangements shall in no way be a cause for the delay in the execution of interconnection agreement and actual interconnection of the parties.

SECTION 66. Equipment used for interconnection and access to unbundled network elements includes, but is not limited to:

a. Transmission equipment including, but not limited to optical terminating equipment and multiplexers; and

b. Equipment being collocated to terminate basic transmission facilities.

SECTION 67. Nothing in these rules shall be construed to require an access provider to permit collocation of switching or billing equipment or equipment used to provide enhanced services.

SECTION 68. When providing virtual collocation, an access provider shall, at a minimum, install, maintain, and repair collocated equipment identified in Section 66 within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of the access provider.

SECTION 69 . An access provider shall allocate space for the collocation of the equipment identified in Section 66 of this section in accordance with the following requirements:

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a. An access provider shall make space available within or on its premises to access seekers on a first-come, first served basis; Provided, that the access provider shall not be required to lease or construct additional space to provide for physical collocation when existing space has been exhausted;

b. To the extent possible, an access provider shall make contiguous space available for access seekers that seek to expand their existing collocation space;

c. When planning renovations of existing facilities or constructing or leasing new facilities, an access provider shall take into account projected demand for collocation for equipment;

d. An access provider may retain a limited amount of floor space for its own specific future needs or uses; Provided, that it may not reserve space for future use on terms more favorable than those that apply to other PTEs seeking reserve collocation space for their own future use;

e. An access provider shall relinquish any space held for future use before denying a request for physical collocation on the grounds of space limitations; and

f. An access provider may impose reasonable restrictions on the warehousing of unused space by collocating PTEs.

SECTION 70 . An access provider shall permit collocating PTEs to collocate equipment and connect such equipment to unbundled network transmission elements obtained from the access provider, and shall not require such PTEs to bring their own transmission facilities to the premises of the access provider in which they seek to collocate equipment.

SECTION 71. Whenever possible, an access provider may permit a collocating PTE at its premises and to connect its collocated equipment to the collocated equipment of another PTE within the same premises; Provided, that the collocated equipment is also used for interconnection with the access provider or for access to its unbundled network elements.

SECTION 72. An access provider shall provide the connection between the equipment in the collocated spaces of two or more PTEs, unless it permits one or more of the collocating carriers to provide this connection for themselves.

SECTION 73 . An access provider is not required to permit a collocating PTE to place their connecting transmission facilities within its premises outside of the actual physical collocation space.

SECTION 74. An access provider may require security arrangements to separate a collocating telecommunication carrier’s space from its facilities.

SECTION 75 . An access provider shall permit a collocating PTE to subcontract the construction of physical collocation arrangements with contractors approved by it; Provided, that it shall not unreasonably withhold approval of contractors. Approval by an access provider shall be based on the same criteria it uses in approving contractors for its own purposes.

ARTICLE XVI
Operation of an International Gateway

SECTION 76. Interconnection among telecommunications carriers shall be effected in such a manner that it permits re-routing of call from an IGF operator which is rendered inoperative whether in whole or in part in the event of strikes, lockouts, disasters, calamities, and similar causes to other IGF operators.

SECTION 77 . Unless otherwise agreed, each party shall be responsible for the construction, operation and

maintenance of interconnection equipment and facilities located or installed within its premises to ensure adequate, reliable, and efficient service to the public at all times. Any modification, substitution or addition of interconnection equipment and facilities required shall be mutually agreed upon by both parties.

SECTION 78. Each party shall take all necessary steps, precautions and safeguards in the location, construction and maintenance of its equipment, and insure their safety from natural and human hazards and other forms of interference and disruptions.

ARTICLE XVIII
Maintenance, Fault Reporting and Clearance Procedures

SECTION 79. The parties shall mutually agree on the maintenance procedure to be followed strictly observing and complying with the service performance standards prescribed by the Commission and the internationally accepted performance standards.

SECTION 80 . The parties shall exert all reasonable efforts necessary to maintain the interconnection facilities in efficient working order and to repair the same in prompt and effective manner. Maintenance of Interconnection facilities includes, but not limited to, routing meter readings, minor repairs, minor technical adjustments and observance of proper cleanliness of the equipment/radio stations.

SECTION 81 . All fault reporting that affects traffic flow must be exchanged between the parties and all reported faults shall be dealt with promptly in accordance with procedures to be agreed by the parties. The parties shall coordinate with and assist each other whenever possible in the identification and rectification of faults on interconnect links and/or transmission facilities.

When one party has cleared the fault, positive confirmation should be given to the other party. Updates of fault clearances shall be made available to the other party upon request.

ARTICLE XIX
Force Majeure

SECTION 82. The obligations of the parties to an interconnection agreement shall be considered relieved and discharged upon the occurrence of any of the following events;

a. Condemnation of either party’s premises by any authority having the power of eminent domain to the extent that it directly and adversely affects the performance of the obligations or exercise of the rights of the parties;

b. Actions taken in compliance with any valid order or regulation of the Commission or any duly constituted authority of the Republic of the Philippines;

c. Invasion by a foreign power of the country existence of a state of war in the Philippines to the extent that it directly and adversely affects the discharge of the obligations and exercise of the rights of the parties;

d. Any action taken by a local or national governing body which tends to prevent the continued use of the properties of either party for the purpose contemplated herein to the extent that it directly and adversely affects the discharge of the obligations and exercise of the rights of the parties;

e. Rebellion or insurrection which directly affects the performance of the obligations and exercise of rights of the parties; and

f. Acts of God to the extent that they directly and adversely affect the discharge of the obligations and exercise of the rights of the parties.

ARTICLE XX

Confidentiality of Information

SECTION 83. All information provided by one party to another in relation to interconnection between them must be treated as strictly confidential and shall not be disclosed or divulged to any third party unless it is with prior knowledge and written consent of the party providing the information or the disclosure thereof is required by law or by any lawful order of any competent authority.

ARTICLE XXI
Penalties

SECTION 84. Any violation of these rules and those promulgated by the Commission pursuant to Executive Order No. 59, Republic Act No. 7925 and their implementing rules and regulation shall, upon due notice and hearing, be subject to any or combination of the following penalties:

a. Administrative fines, penalties and sanctions as may be imposed by the Commission pursuant to existing laws, decrees, orders and rules and regulations;

b. Suspension of further action on all pending and future applications for permits, licenses, or authorizations;

c. Disqualification of the responsible employees, officers or directors of the violating carrier or operator from being employed in any enterprise or entity under the supervision of the Commission;

d. Suspension of the authorized rates for any service or services of the violating carrier or operator without disruption of its services to the public.

SECTION 85. Government financial institution are hereby discouraged from extending loans to PTEs who violate any provision of this Memorandum Circular.

ARTICLE XXII
Construction of the Rules

SECTION 86. These rules shall be liberally interpreted to promote and encourage interconnection between and among all the telecommunications carriers.

SECTION 87. Nothing in these rules shall be interpreted to limit, restrict or otherwise prohibit the parties from entering into an agreement whose terms and conditions are better than what is being mandated by these rules for their mutual benefit and for the benefit of the public.

ARTICLE XXIII
Transitory Provisions

SECTION 88. PTEs which are interconnected to each other at the time of the effectivity of these rules and regulations, and whose interconnections agreements stipulate or provide for terms and conditions that are not consistent or in conflict with or do not comply with these rules and regulations, shall have a period of one (1) year from the effectivity hereof to re-negotiate and agree on the amendment, revision or modification of such terms and conditions so as to comply with these rules and regulations. In the event of a failure of the parties to agree on such amendments, revisions or modifications, such shall be considered a dispute, and upon petition of a party to the interconnection, the Commission shall assume jurisdiction and resolve the same in accordance with Section 14 hereof.

SECTION 89. Existing settlement agreements using the revenue sharing scheme pursuant to NTC Case No. 88-145 shall remain valid until such time that the Commission shall have established and prescribed a specific cost methodology.

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SECTION 90 . All PTEs that do not have the capability to measure both incoming and outgoing are hereby given a period of two (2) years from the effectivity of this Memorandum Circular within which to install, operate and maintain equipment, devices and capabilities to measure both incoming and outgoing calls.

In the absence of said capability, data/records of the concerned PTE that has such capability shall be used for purposes of billing and settlement and any other technical requirements.

ARTICLE XXIV
Final Provisions

SECTION 91 . Any portion or section of these rules which may be declared invalid or unconstitutional shall not affect the validity of the other remaining portion or sections.

SECTION 92. All existing memoranda, circulars, rules and regulations inconsistent with the provisions of this memorandum circular are hereby repealed or amended accordingly.

SECTION 93 . This memorandum circular shall take effect fifteen (15) days following the completion of its publication in the Official Gazette or in a newspaper of general circulation in the Philippines; Provided, that at least three (3) certified copies thereof be filed with the University of the Philippines Law Center.

Adopted: 21 July 2000

(SGD.) JOSEPH A. SANTIAGO
Commissioner

(SGD.) NESTOR C. DACANAY
Deputy Commissioner

(SGD.) AURELIO M. UMALI
Deputy Commissioner

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