IMPLEMENTATION GUIDELINES FOR THE RATIONALIZATION OF LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE

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The purpose of these guidelines is to rationalize the provision of Local Exchange Telecommunications service by minimizing or eliminating situations where multiple operators are providing local exchange service in a given area. This rationalization effort is prompted by the Government's procurement and installation of telecommunications facilities as part of the Regional Telephone Development Project (RTDP), the National Telephone Project (NTP), and the Municipal Telephone Project (MTP) along with the Government's on going effort to privatize Government-owned telecommunications facilities.

1. The National Telecommunications Commission (NTC) shall define the boundaries of local exchange areas, and shall henceforth authorize only one franchised Local Exchange Carrier (LEC) to provide LEC service within such areas.

2. The policy objective is to ensure that the franchised carrier duly authorized by NTC to provide LEC service in a defined area shall be the sole holder of the of the Certificate of Public Convenience and Necessity (CPCN) for basic local telephone services therein, subject to compliance with service standards set by the Commission. Current non-complying situations shall be addressed on a case-by-case basis by NTC, and resolved through definition of service areas, negotiation for a takeover by one operator, or the cancellation of one of the CPCN's.

3. In keeping with the findings of the National Telecommunications Development Plan (NTDP), in order to maximize economies of scale, minimize fragmentation and make efficient use of LEC and Interexchange Carrier (IXC) service facilities, government-owned LEC and related IXC facilities will be bid out as a package on either a lease or outright sale basis. The exception will be LEC facilities in areas where there is already a duly authorized, franchised private operator providing local exchange service.

Where there is an existing or planned government local exchange and one authorized private operator of LEC services in a given area, the government will:

a) send prequalification documents to the private operator forthwith, asking that the forms be accomplished and submitted to the DOTC within 30 days;

b) evaluate the results in cooperation with the NTC, to determine:

i)

whether the operator is technically and financially capable of sustaining acceptable LEC service levels in its area of service; or

ii)

whether the operator has sufficient financial and technical resources to assume the operation of a combined LEC/IXC exchange.

c) subject to the operator being found capable of assuming the operation of the government facilities in his area,

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offer the assets to the operator on a lease or purchase basis, using as a reference, the market price established under the public bidding process. For RTDP and NTP I-1, the market price shall be adjusted in accordance with the process described in Addendum "A";

d) execute a contract with the winning network bidder to include the government assets in the area concerned, if the incumbent operator is found not to be capable, or does not accept the government's terms for the lease or sale of the system in the incumbent's area of operation.

5. Privatization in the case of combined local/toll switch in areas with incumbent operators, procedure shall be in accordance with Paragraph 4 a and b, as follows:

a) Offer toll facilities to the winning network bidder.

b) Offer local facilities to the incumbent operator if found capable. The winning network bidder is encouraged to execute an operating agreement for the toll switch with the existing local operator.

6. In locations where there is an existing or planned government exchange and more than one authorized (and qualified) private operator of local exchange service, the government system will be bid out to the two or more incumbents for the area concerned, using a floor price equal to the adjusted market price as set out in Addendum "A". If there is no acceptable bid, the successful bidder for the facilities in the area concerned will assume the responsibility for the system under a separate contract. NTC shall resolve the resultant service area situation as outlined in paragraph 3, above.

7. For local exchange areas where there is no existing private operator, one will be selected from amongst qualified operators expressing an interest in the area, such selection to involve a public bidding process. In locations covered by the Municipal Telephone Project, qualified operators have been selected under the processed outlined in the Municipal Telephone Act. Further details are set out in Addendum "B" attached hereto.

All previous issuances/memoranda/circulars that are inconsistent herewith are hereby superseded accordingly.

This takes effect immediately for compliance.

Adopted: 30 Sept. 1993

(Sgd.) PETE NICOMEDES PRADO
Acting Secretary
ADDENDUM "A"

Procedure for Determining the Price of Government Exchanges to Local Operators

Introduction
The LEC/IXC facilities of existing and planned government systems are being bid out as a whole, excluding the local exchanges located where there is already a franchised local exchange operator. This process will establish a lease arrangement comprising three elements, a one-time "up front" payment, a series of lease payments for each of the 30 years of the lease, and a final payment to complete the purchase of the assets. Each element of the lease can be considered to comprise in turn, two sub-elements, one covering the local exchanges, and the other covering the toll facilities.

To determine the appropriate lease arrangement for local exchanges alone, it is necessary to separate the sub-elements of the lease payments of the successful bidder in order to extract the portion covering local facilities only. It is also considered necessary to make a further adjustment to the lease rates for small exchanges, to recognize the lower efficiency of such installations.

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Adjustment Mechanism

1. Base Elements (of successful bid):

- up front payment
- annual lease payments (for each 30 years)
- "buyout" payment (at the end of 30 years)

2. Adjustment to Extract Local Payment Portion (A1) - The market price for each of the three elements of the successful bid as indicated in item 1 above will be reduced by forty-five percent (45%) as an adjustment to reflect the portion of the bid which is related to toll facilities.

3. Adjustment for small exchanges (A2) - to recognize the fact that small exchanges are less profitable for a number of reasons, a downward adjustment of a further five percent (5%) is proposed, for exchanges smaller than 750 lines.

4. The base elements would be amended by applying the two adjustments, A1 and A2, successively.

ADDENDUM "B"
Process for Privatizing Government-financed Public Calling Offices (PCO's)
Introduction
Following the enactment of the Municipal Telephone Act of 1989 (RA6849 - The Act), various private operators applied to the Municipal Telephone Projects Office (MTPO) for certification pursuant to the guidelines set out in the Act and Departmental Order No. 90-444. The result of this process was the certification of five companies, PLDT, PILTEL, EXTELCOM, Digitel and PT&T.

These prequalified companies have now undertaken to fund and implement on their own, MTPO facilities in 37 provinces, and schedules have been developed for their meeting the requirements of the Act.

Assigned Areas
Taking into account the areas already undertaken by these operators, the nature and scope of the bilateral programs being utilized to develop the remaining areas, the department intends to invite the prequalified operators to bid on the MTPO facilities outside of the areas covered under the bid process for RTDP A and B and NTP I-1, with the object of entering into a leasing arrangement similar to that developed for the RTDP/NTP privatization. Government provincial PCO projects under the Municipal Telephone Project in areas covered by the RTDP and NTP will be integrated in the respective RTDP and NTP packages to avoid competition which can affect both operators.

It is noted that in those municipalities where there is already an existing private operator, no MTPO facilities would normally be planned, since the Act targets only unserved areas.

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