



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1, ISLAMABAD
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<http://www.pta.gov.pk>

**Enforcement Order under Sub-section 3 of Section 23 of the Pakistan
Telecommunication (Re-organization) Act, 1996**

Re: M/s Metrotel (Pvt.) Limited

File No. PTA/Wireless Licensing/LL and Mobile/WLL Licensee/13/2006

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| Date of Issuance of Show Cause Notice: | 3 rd August 2009 |
| Date of Hearing: | 27 th October 2009 |
| Venue of Hearing: | PTA HQs, Islamabad |

The Authority Present:

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| Dr. Muhammad Yaseen: | Chairman |
| S. Nasrul Karim Ghaznavi: | Member (Finance) |
| Dr. Khawar Siddique Khokhar: | Member (Technical) |

The Issue:

"Failure to complete roll-out obligation in the licensed region and un-used frequency spectrum"

Decision of the Authority

1. Brief Facts:

1.1 **M/s. Metrotel (Pvt) Limited** (the "licensee") was awarded non-exclusive Wireless Local Loop License No.WLL-14-2004 dated 20th November, 2004 (the "license") by Pakistan Telecommunication Authority (the "Authority") to provide the licensed services in the licensed region of GTR to establish, maintain and operate Telecommunication System on the terms and conditions contained in the license. As a licensee of the Authority, M/s Metrotel (Pvt)Limited was required to comply with the provisions of prevailing regulatory laws comprising of the Pakistan Telecommunication Authority (Re-organization) Act, 1996 (the "Act"), the Pakistan Telecommunication Rules, 2000 (the "Rules"), the Pakistan Telecommunication Authority (Functions & Powers)Regulations, 2006 (the "Regulations") and the terms and conditions of the license.

1.2 Under clause 3.2.1 read with clause 1.2.1 of Appendix-2 of the license conditions, the licensee was obliged to establish at least one Network Connection Point in each licensed region and commence the provision of Mandatory Services within

eighteen (18) months from the effective date i.e. the date of issuance of the license. In addition, clause 5.4 of Appendix–B of the Rules also provides that the license shall terminate on the first anniversary of the effective date if the licensee has not before that date commercially provided licensed services or operated the licensed system.

1.3 The Authority on the license’s request and keeping in view the difficulties being faced by WLL licensees, extended the deadline for operation of aforesaid clauses twice, firstly, vide letter No. Rollout (WLL)/WLL&M/PTA dated 29th June, 2006 till 19th May, 2007 and secondly, vide letter No. Rollout (WLL)/LL&M/PTA dated 23rd May, 2007 for a further period of twelve months with emphasis laid on the fact that the last extension is final and in case the roll-out is not completed within the specified time the Authority may withdraw unused spectrum and cancel the license. The Authority issued reminders dated 11th March 2008, 15th April, 2008 and finally a warning letter No. Rollout(WLL)/LL&M/PTA dated 16th May, 2008 requiring the licensee to complete roll-out in the unused frequency spectrum and provide proof of the same by 30th May, 2008. Finally, the licensee was required vide letter No. Metrotel-25/WLL&M/PTA/1762 dated 28th May, 2009 to complete roll-out and apply for Commencement Certificate by 17th June, 2009. The licensee failed to comply with the terms and conditions of the license and the directions of the Authority concerning roll-out obligation despite extended relaxations by the Authority.

1.4 Failure to comply with the directions of the Authority resulted into issuance of the Show-cause notice (the "notice") dated 3rd August 2009 under section 23 of the Pakistan Telecommunication (Re-Organization) Act, 1996 (the "Act"). The licensee replied to the notice on 1st September 2009 as under:

“Subject: REPLY TO SHOW CAUSE NOTICE U/S 23 OF THE PAKISTAN TELECOMMUNICATION (RE-ORGANIZATION) ACT. 1996

Dear Sir,

Kindly refer to your show cause Notice No. PTA/Wireless Licensing/LL & Mobile/WLL Licensee/13/2006/872 dated 3rd August 2009 to our company M/s Super Dialogue (Pvt.) Ltd.

It is to mention that M/s Super Dialogue (Pvt.) Ltd. is a private limited liability company and holds a license from Pakistan Telecommunication Authority to establish, maintain and operate a WLL system in the licensed regions of GTR in 3.5 GHz frequency band on the terms and conditions contained in the license.

In lieu of the reference letter, we appreciate your compulsions for license terms and conditions and share your concerns but it is to be mentioned here that there was nothing intentional in these delays. Ever since the award of licenses we have been striving hard to fulfill our license obligations including the Spectrum Fee

and the recurring annual charges on that account.

As regards to roll out, our network deployment is in the final stages of completion and will soon be furnished to the authority. PTA had done a commencement inspection at our site in Sialkot (GTR). As per the report of the inspection team, the shortfalls identified (vide Letter No. Metrotal-25/WLL&M/PTA, January 29, 2008) were completed and the desired WLL network is available for the PTA's inspection.

With regards to above, our in-house working is complete. The only obstacle that we are facing is in the interconnectivity with PTCL. In spite of so many efforts being done for getting the co-location in Sialkot, PTCL refuses. We are now looking for other options to complete this activity. Currently, we are in hand with world call for the interconnectivity and that is on final stages.

*Our seriousness in undertaking this project can be ascertained from the investment that we have pledged in honoring our license obligations in terms of annual spectrum payments and other license terms like **National Signaling Point Code** (Letter no. NSPC/2009, November 18, 2008), **Clearance/NOC of BTS Site** (FAB/D-8/2007-1, Dated: 11th June, 2009), **Numbering Series** (Metrotel Pvt. Ltd/2008, Dated: 17th December, 2008), **FormR-01, Commercial code of practice and Standard contract of service** (Letter no. Metmtei-PTA/status-Rpt/002, June 3rd, 2009).*

With above submissions, we request the authority to consider our justifications/explanations to remedy the contraventions of the laws, as we have always been striving hard to fulfill our license obligations. We hope that this reply would resolve the subject matter amicably and the authority will give us an opportunity to rollout our licenses in the desired manner and eventually provisioning of services to the public. We remain available for any query that may arise in future.

Thanking you for your understanding and support as always."

Since the aforementioned reply was not found satisfactory, the licensee was required through a hearing notice dated 21st October, 2009 to appear before the Authority on 27th October, 2009 for hearing it on the matter.

1.5 The licensee appeared through Mr. Faisal Ayub (Chief Commercial Officer), Mr. Nasir Turi (Sr. Manager Comms), Mr. Atif Ihsan (Manager Business) and Mr. Faraz Nafees (Manager Strategy & Corporate Communication). The licensee's representative reiterated the position it has taken in its reply to the notice as responded in Para 1.4, above. In addition they repeated the problems being faced by the WLL operators in general and specifically highlighted the issues like change of management and spectrum charges which took time to resolve hence contributing in non fulfillment of license obligation towards roll out.

1.6 The case history of the licensee reveals that after claiming that it is ready for inspection it has always shown its inability for the same. PTA wanted to verify for inspection surveys in Feb 09, but the licensee requested for delay by saying that it will be ready in March 09, on the converse the initial presentation by the licensee to the enforcement zonal offices revealed that not even the network configuration is complete. In response to PTA final warning in May 09 the licensee again ensured for inspection next month, but never applied for the same, which pushed the Authority to finally issue show cause notice. Furthermore as regards the interconnection issues the licensee never approached the Authority for resolution of the same with PTCL as per the provisions of the Interconnection Dispute Resolution Regulations 2004, and is shifting the onus of proof to the extent of non compliance with roll out obligation entirely to PTCL.

2. Order of the Authority:

2.1 Keeping in view the foregoing facts and record of the case as well as licensee's request for extension in time, the notice is disposed off in the following terms:

- (a) the licensee, i.e. M/s Metrotel (Pvt.) Limited is finally required to complete roll-out obligation and establish its network as per clause 3.2.1 of the license condition and start the commencement of mandatory licensed services in the licensed region of GTR by **20th March 2010** after completing all the commencement requirements and submit compliance report by 20th March 2010.
- (b) In case of its failure to comply with directions in Para 2.1(a) above, the Wireless Local Loop License No.WLL-14-2004 dated 20th November, 2004 for the aforesaid region shall stand **CANCELLED** w.e.f 21st March 2010.

(S. Nasrul Karim A. Ghaznavi)
Member (Finance)

(Dr. Khawar Siddique Khokhar)
Member (Technical)

(Dr. Mohammed Yaseen)
Chairman

Signed on ____ day of February, 2010 and comprises (4) pages