



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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Enforcement order under sub-section 3 of section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 in the matter of National Telecommunication Corporation

File No. 02-08/2005(Interconnect)/PTA

Date of Issuance of Show Cause Notice: 22ndDecember, 2006
Date of Hearing: 9th May, 2007
Venue of Hearing: PTA HQs, Islamabad

The Authority present:

S. Nasrul Karim Ghaznavi: Member (Finance)
Dr. Muhammad Yaseen: Member (Technical)

The Issue:

“Non payment of APC for USF Contribution”

DECISION OF THE AUTHORITY

BRIEF FACTS:

National Telecommunication Corporation (“the licensee”) established pursuant to section 41 of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”) is engaged in the business of telecommunication services to its designated customers vide non exclusive license No. PTA/M (T) 021 dated 22nd September, 1998 (the “license”) issued by the Pakistan Telecommunication Authority (“the Authority”) to establish, maintain and operate telecommunication systems and to provide telecommunications services in Pakistan other than AJK and Northern Areas on terms & conditions contained in the license.

2. Briefly stated that the licensee neither deposited its APC for USF contribution for the period from January, 2005 to August, 2006 nor submitted traffic data after May, 2006. The Authority vide its letters dated 7th October, 2005, 14th February, 2006, 27th April, 2006, 11th August, 2006 and 27th September, 2006

required the licensee to deposit the due amount of Rs.523,995,482/- but in vain. The Authority once again vide its letter dated 21st November, 2006 extended the date for payment by 6th December, 2006, but the licensee failed to deposit the said contribution by the deadline. Hence, the Authority issued a Show Cause Notice dated 22nd December, 2006 (“the Notice”) whereby the licensee was required to deposit the aforesaid contribution within seven days and to submit written reply within thirty days of the issuance of the Notice.

3. In response to the Notice the licensee submitted its reply vide its letter dated 29th December, 2006. In the reply the licensee relied on its previous letters dated 9th October, 2006 and 15th December, 2006. In these letters it informed that arbitration between the licensee and M/s. Catalyst Communication (Pvt) Ltd has been concluded through an award dated 15th August, 2006 and one core issue before the arbitrator was deduction of APC for USF by the licensee payable to PTA and finding of the arbitrator is contrary to PTA assertion. It further informed that M/s. Catalyst Communication (Pvt) Ltd has, therefore, requested the court of competent jurisdiction to make this award a rule of the court through judgment and decree, hence, the matter is subjudice. Regarding provision of data it stated that it has already provided data vide its letter dated 8th August, 2006, and no traffic is being terminated on its gateway since 9th June, 2006. In addition the licensee informed that dispute between the licensee and O&M Partners on APC for USF are still pending before Lahore High court and Sindh High court. However, it assured that it will make payments as and when Honourable courts decide the matter and also requested the Authority to reconsider the show cause notice.

4. The Authority replied it vide its letter dated 5th January, 2007 whereby informed the licensee that pendency of disputes between the licensee and its O&M partners before any court of law on APC for USF has no relevance with the show cause issued by the Authority and directed the licensee to comply the requirements of the show cause. Thereafter, the licensee deposited Rs. 50 Million on 15th January, 2007 and Rs. 25 Million on 28th March, 2007 out of payable Rs. Rs. 523,995,482/- on account of APC for USF. Therefore, before passing an enforcement order a Hearing Notice dated 4th May, 2007 was issued and served on the licensee whereby informed the licensee to attend the hearing on 9th May, 2007 before the Authority on the subject issue.

5. Maj. (R) Shams, Director (Interconnect &RA) and Mr. Shahid Nishai, ADE (Interconnect) the representative of the licensee, attended the hearing. During the hearing the licensee briefed the Authority about the events and circumstances due to which it failed to pay its outstanding APC for USF Contribution. The licensee informed that it has already paid Rs.75 Million and rest of the amount will also be paid in installments. It further stated that it is practically difficult for the licensee to deposit all the payable amount in one-go due to cash flow problems. The licensee also informed that its international incoming traffic has been stopped since 9th June, 2006 in the light of PTA instructions and it has already provided traffic data to PTA.

6. On the question of the Authority that default in payment started in the month of April, 2005 and continues till date, why the licensee is not serious in making payments? The licensee admitted the fault and replied that previous management actually disputed the payment of APC for USF Contributions, however now the licensee is not contesting it and it has already started making payments. The licensee requested the Authority that it should be allowed to make payment in installment of Rs. 30 Million monthly with grace period of six months.

7. The Authority asked the licensee whether O&M partners of the licensee have made the payments to the licensee or not? The licensee replied in negative. DG (Finance) informed the Authority that the licensee has not provided its annual audited accounts for the years 2005 and 2006. The Authority verbally instructed the licensee to submit annual audited accounts for the years 2005, 2006 and 2007 (upto March, 2007) by 30th May, 2007 so that the Authority could be able to scrutinize the matter and decide the issue. The licensee submitted copies of draft accounts vide its letter dated 24th May, 2007, but failed to provide audited accounts.

8. ORDER

8.1. Keeping in view the foregoing particularly the licensee's request to pay the amount in installments, the Notice is disposed of by passing the following enforcement order:

(a). The licensee is directed to pay the amount of Rs.523,995,482 (APC for USF upto 9th June, 2006) in installments by paying first installment in the amount of Rs.100 million on or before 1st October, 2007 and the remaining amount in monthly installment of Rs.30 million each from 1st November, 2007.

(b). In case of the licensee's failure to abide by the aforementioned schedule of installments, the total outstanding amount on the date of violation shall be recovered in lump sum with late payment charges @2% of the outstanding amount, from the date of default till final realization.

(S. Nasrul Karim Ghaznavi)
Member (Finance)

(Dr. Muhammad Yaseen)
Member (Technical)

Signed on 15th August, 2007 and comprises 03 pages.