



**PAKISTAN TELECOMMUNICATION AUTHORITY**  
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No. 14- 223 /L&A/ PTA

**Hearing date: 28 April 2005**

**Determination on PTCL Reference Interconnection Offer (RIO)**

**1. INTRODUCTION**

1.1. That the Pakistan Telecommunication Authority (the “Authority”) is a body corporate established pursuant to section 3 of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”), which, among others, performs the following functions:

- (i) regulate the establishment, operation and maintenance of telecommunication systems and the provision of telecommunication services in Pakistan;
- (ii) promote and protect the interest of users of telecommunication services in Pakistan; and
- (iii) promote the availability of a wide range of high quality, efficient, cost effective and competitive telecommunication services throughout Pakistan.

1.2. That section 5(2) (h) of the Act empowers the Authority to provide guidelines for, and determine, the terms of interconnection arrangements between licensees where the parties to those arrangements are unable to agree upon such terms. Pursuant to the powers given under the said provision of the Act, the Authority issued the Interconnection Guidelines, 2004 (the “Guidelines”). The main objectives of interconnection as laid down in these Guidelines are that the users of one network can communicate with the users of other network; wasteful and uneconomic duplication of network facilities should be minimized; and conditions for fair competition between the incumbent operator and new

entrants should exist. To achieve these objectives, certain principles have also been laid down in the Guidelines. The clause 5 of the Guidelines provides, *inter-alia*, the following principles:

- (i) all operators are obliged to provide interconnection to other operators desiring to interconnect. Interconnection shall be permitted at any technically and economically feasible point. In case the requesting operator requires access from any other point, he shall undertake the additional cost;
- (ii) interconnection and related services and facilities shall be provided on the basis of unbundled network elements and charged accordingly. A requesting operator shall only pay for the network components or facilities of the interconnection that it requires;
- (iii) the operators shall not unfairly discriminate the terms of interconnection among different operators. An operator shall offer same interconnection terms to other operators as compared to his own similar operations or affiliates;
- (iv) charges for interconnection services shall be cost-oriented;
- (v) cost of inefficiencies of an operator should not be passed on to other operators through higher interconnection charges; and
- (vi) interconnection arrangements should encourage efficient and sustainable competition.

1.3. That clause 6 of the Guidelines states that the operator with Significant Market Power (SMP) is obliged to prepare and submit its Reference Interconnection Offer (RIO) to the Authority within one month of its determination as SMP operator by the Authority. The SMP operator is required to make the RIO publicly available within seven days after approval from the Authority. The Authority may make amendments in the RIO considering the principles as mentioned in clause 5 of the Guidelines. The requesting operator may adopt RIO in full, or may request for some modifications subject to the approval of the Authority.

1.4. That the Authority vide its powers conferred under rule 17 of the Pakistan Telecommunication Rules (the “Rules”) issued a determination vide No. 15-46/01(Tariff)/PTA dated 25 August 2004 wherein M/s Pakistan Telecommunication Company Limited (the “Appellant”) was declared as SMP operator. As per the said determination the Appellant was declared as SMP operator in the following relevant market:

- a. Local Loop fixed line telecommunications market in all telecom Regions;
- b. Long Distance & International fixed line telecommunications market of Pakistan;
- c. Leased lines market of Pakistan; and
- d. National interconnection market of Pakistan.

Hence, having a SMP status in the national interconnection market, the Appellant as per the Guidelines is bound to prepare a RIO and seek its approval from the Authority.

1.5. That rule 13 (11) of the Rules requires the Authority to take into account following matters when determining the terms and condition of an interconnection agreement:

- (a) the promotion of non-discrimination between operators in similar circumstances providing similar services;
- (b) the promotion of competition;
- (c) relevant operators should allow flexibility to the other operators as to the points of connection, manner of conveyance of traffic and the routing of intelligence;
- (d) protection of the interest of customers;
- (e) maintenance of the public switched network and inter-operability of services; and
- (f) the relative market position of the parties.

## 2. BACKGROUND

2.1. That the Appellant was awarded license No. PTA/M (T)-014/A dated 15 April 1997 to establish, maintain and operate telecommunication systems and provide telecommunication services in Pakistan.

2.2. That the Federal Government of Pakistan announced the Deregulation Policy (the "Policy"), on 13 July 2003 wherein certain interconnection related obligations were imposed on the Appellant. These include, *inter alia*, submission of RIO to the Authority for approval. As mentioned above, the Guidelines issued by the Authority also require SMP operators to prepare and submit their RIO to the Authority for approval. In this context, the Appellant provided its RIO to the Authority on 15 April 2004.

2.3. That the Appellant's RIO was reviewed internally by the Authority and was placed on PTA website to seek comments and views of the stakeholders. A number of operators submitted more than four-hundred (400) queries and suggestions regarding legal, technical and commercial issues arising from the Appellant's RIO. These comments were analyzed by the Authority and were also forwarded to the Appellant for its response thereon.

2.4. That a number of meetings with the Appellant and the telecom operators i.e. Local Loop and Long Distance International telecom operators were held, keeping in view the complexity and significance of the matter, where various issues pertaining to RIO were discussed at length. In the light of discussions held with the Appellant and telecom operators, the Appellant was asked vide letter No. 15-43/99(Tariff)/PTA dated 16 July 2004, to amend its RIO. In response to the said letter, the Appellant submitted its amended RIO that was again placed on PTA's website on 13 August 2004 for further public consultation.

2.5. That to encourage direct participations of all telecom operators in the negotiations, a forum on the Appellant's RIO was held on 1 September 2004. During the forum, the Appellant gave a presentation in which it apprised the telecom operators about the steps being taken by the Appellant to accommodate new operators. The basis used to establish interconnection charges relating to origination & termination of calls, transit service, leased lines, collocation, carrier pre-selection charges, etc., were also explained in the presentation. The new operators also gave a presentation in the forum in which their reservations on the Appellant's RIO were enumerated. Apart from other issues, emphasis was made on the interconnection charges which were stated to be high by the telecom operators. The telecom operators were asked in the said forum to submit their proposals regarding specific issues arising from the Appellant's RIO by the first week of October 2004.

2.6. That to conclude the consultation process, two meetings were held on i.e. 27 October 2004 and 11 November 2004 at PTA H/Qs wherein the issues of interconnection charges and related discussions were held. After due deliberations and discussions on all areas of RIO including but not limited to Origination and Termination Charges, Transit Charges, Domestic Private Leased Circuits (DPLC) Charges, E1 Charges, Transmission Capacity Charge, Carrier Pre-selection Charges and Testing Charge, a determination on PTCL (fixed to fixed) Interconnection Charges was issued on 6 December 2004 by the Authority.

### **3. FACTS OF THE CASE**

3.1. That the Appellant being aggrieved by the determination passed by the Authority filed First Appeal against the Order (F.A.O No. 04 /2005) before the Honorable Lahore High Court, Rawalpindi Bench, Rawalpindi. The Honorable High Court vide its decision dated 6 April 2005 ordered the following:

With the concurrence of the learned counsels for the parties, the instant writ petition is accepted, impugned order is set aside and the case is remitted back to the respondent/Pakistan Telecommunication Authority

who, after hearing the parties, will decide the matter afresh, positively within a period of one month from the receipt of this order.

3.2 That pursuant to the order of the Honorable High Court, the Authority convened a hearing on 28 April 2005 and called all interested parties to attend the hearing. Mr. Mashkooor Hussain, SEVP (CA), Mr. Gul Ahmed, CE (P&R), Mr. Sajjad Ahmed, GM (Cost A/C), Mr. Zakir Hussain Satti, Director (Interconnection), Mr. Ghulam Mustafa, Dy. Legal Advisor, and Mr. Khalique-u-Zaman, Advocate High Court, attended the hearing on behalf of the Appellant. While from the other side Mr. Shahid Naeem Butt, Director (RA) from M/s Telecard, Mr. Yasin Altaf, Manager (Product Development) from M/s DV Com, Asif Roomi, Manager from M/s Warid Telecom, Mr. M. Luqman, CEO M/s Dancom, Mr. Wahaj-u- Siraj, CEO M/s NTL, Mr. Ahmed A. Siddiqui from M/s Nayatel, Mr. Omer Waleed from M/s Redtone, Mr. Muhammad Aqeel, Director (OPS) form M/s Burraq Telecom, Mr. Mubashir Mubeen, Manager (Regulatory Affair) from M/s Burraq Telecom and Mr. Ijaz Ishaq Khan, Advocate High Court, attended the hearing as representatives of the telecom operators.

#### **4. APPELLANT'S POINT OF VIEW**

4.1. That as per schedule, the hearing was started and after the introductory remarks of the Honorable Chairman of the Authority, the Appellant was asked to present its case. Mr. Khalique-u-Zaman, the learned counsel for the Appellant, presented its case and argued that as per condition 3.2 of the Appellant's license, it is one of the obligations of the Appellant to interconnect its telecommunication system with other licensed telecom operators. Such nature of contracts enables the communication between its system and that of other operators so that respective consumers can access and communicate with each others. The charges at which interconnection services are to be provided are fundamentally important because the obligations that such interconnection agreements impose entail investment of large amounts of money both for setting up the required facilities and for operations and maintenance of such services.

4.2. He emphasized that the Appellant has the obligation not to enter into any contract, agreement, or other arrangement which is, in any way, inconsistent with any of its obligations or requirements placed upon it under its license, the Act, the Rules and the Regulations. Any such contract, agreement or other arrangement shall, to that extent, be void. In support of his arguments, he referred section 26 of the Act and submitted that charges for all telecommunication services including interconnection service are to follow, *inter alia*, the principles that charges shall be at a level which provide a reasonable rate of return on investment taking into account the cost of operations, that there shall be no cross-subsidization of other telecommunication services by basic telephone services, the interest of consumers shall be safeguarded and protected, and that there shall be no discrimination between comparable providers and users of telecommunication services. Unlike section 26 of the Act, he asserted that rule 16 of the Rules requires that interconnection charges are to be cost-oriented and based on Long-Run Incremental Cost (LRIC) principles, and if costs are not readily available then these shall be based on the level of charges for similar services provided by comparable telecommunications operators in other countries.

4.3. That the learned counsel for the Appellant also mentioned that the Honorable Authority in exercise of its powers under section 5(2)(h) of the Act to provide guidelines for, and determine, the terms of interconnection arrangements between licensees where parties to those arrangements are unable upon such terms, issued the Interconnection Guidelines, 2004. Hence, in view of the fact the Authority's power under the Act to issues guidelines are exercisable only in the event that the parties to those arrangement are unable to agree upon such terms. It is apparent that in the absence of disagreement in a particular case and without reference to a particular case, the Interconnection Guidelines, 2004 are, *ultra vires*, the Act.

4.4. That the learned counsel for the Appellant pointed out that as per direction of the Authority vide letter dated 15 April 2004 the Appellant submitted RIO for approval of the Authority. The Appellant was engaged in preparing the unbundled cost accounts of services so that it could be in a position to calculate the cost of providing interconnection services on the basis of LRIC principles as required under the Rules. The Appellant in

accordance with the applicable law, prepared the RIO in which it proposed charges on the basis of charges for similar services provided by the telecommunication operators in other countries providing comparable telecommunication services to those provided by the Appellant and submitted the same to the Authority for approval thereof. This was in accordance with the provision of rule 16 of the Rules and clause 18.6 of the Interconnection Guidelines and consistent with the provisions of section 26 of the Act, condition 3.2 read with condition 31 of the license and clause 4.5.2 and clause 4.5.3 of the Policy.

4.5. That lastly, the leaned counsel for the Appellant argued that in the impugned determination passed on 6 December 2004 the Authority in paragraph 16 of the said determination accepted that the RIO was based on international benchmarks as given in the Policy and the Rules. The Authority, to bring the interconnection charges to a reasonable level, also acknowledged that the charges proposed by the Appellant have been reduced below the international benchmarks. Therefore, in view of the aforementioned acceptance by the Authority, the RIO as submitted by the Appellant and without change must be approved with effect from the date of its decision in accordance with the applicable law and not retrospectively.

## **5. TELECOM OPERATORS' POINT OF VIEW**

5.1. That the telecom operators argued that, in essence, the Appellant's arguments lead to the conclusion that the benchmarked rates as provided by the Appellant should be accepted by the Authority without application of its mind and that the Authority should not make any alterations to these rates. This argument is contrary to the law on the following grounds:

- a) Rule 16(4) of the Rules provides that pending the introduction of LRIC, the SMP operator's interconnection charges shall be based, as far as possible, on cost-oriented charges for similar services provided by telecommunication operators in other countries providing comparable telecommunication services to those provided by the SMP operator.

- b) Clause 18.6 of the Guidelines provides that where adequate cost information is not readily available the Authority may establish interconnection charges on the basis of benchmarking.

The aforesaid legal provisions establish that the ultimate authority to determine the interconnection charges rests with the Authority. Benchmarking is done on the basis of basket of comparable countries/telecommunication services. Any addition, removal or substitution of countries/telecommunication services in the said basket will result in a change to the outcome rates. The Appellant cannot insist on keeping the basket unaltered if the Authority considers that such changes are appropriate.

5.2. That it is established law that statutory authorities are required to apply their own independent mind. The para 16 of the impugned determination clearly states the evidence the Authority took into account in determining the interconnection charges. The Appellant's argument to the extent of the benchmarking adopted by the Authority in the impugned determination results into a loss to the Appellant is wholly unfounded, as no cost studies were provided by the Appellant to support its stance. In fact the Appellant is only acting to its own detriment by failing to provide cost studies, as it is only in the presence of adequate cost studies that the Appellant can demonstrate and the Authority obliged to give cost-plus interconnect charges. The Appellant's recent tariff reductions amply demonstrate that the margin between its retail tariffs and its interconnect charges is not at all that small as it purports to claim. Reference may also be made in this context to clause 31.7(f), Part II, Schedule 4 of the Appellant's licence, which provides that cost savings in case of correlation of retail rates to interconnect charges shall be passed on to the interconnecting operator or the final subscriber.

5.3. Lastly, the telecom operators submitted that the final legal authority to determine the appropriate interconnection charges rests with the Authority, and the Authority is not bound to approve whatever rates Appellant puts forward before the Authority. In case the Authority does so, it will contravene established legal principles for independent exercise of judgment by statutory regulatory authorities. As far as the effectiveness of the RIO is concerned, they submitted that the Appellant by its own letter of 21 July 2004

asked the Authority to give approval of the RIO to the Appellant to enter into interconnect agreements with private operators. As the consultation exercise was still in progress, the Authority gave its approval vide letter dated 24 July 2004 to the Appellant to enter into interim interconnect agreements on the condition that these agreements shall be replaced retrospectively with the RIO once approved by the Authority. The Appellant entered into interim interconnect agreements on the basis of this permission of the Authority. Hence, the Appellant cannot approbate and reprobate.

## **6. PRELIMINARY CONSIDERATIONS ON THE APPELLANT'S INTERCONNECTION CHARGES**

6.1. According to clause 4.5.1 of the Policy, both types of licensees (Local Loop and Long Distance & International licensees) have the right to interconnection, leased lines and co-location facilities from the incumbent i.e. the Appellant. Pricing of the incumbent services are supposed to be determined in accordance with the Rules, and subject to monitoring by the Authority. Additionally, clause 4.5.2 of the Policy states: "Pending the development by PTCL of unbundled cost accounts of services that are approved by PTA, incumbent's interconnection prices shall be based on international benchmarks".

6.2. Rule 16 (4) of the Rules states that "the SMP operator's interconnection charges shall, as soon as practicable, be based on LRIC in the manner determined by the Authority and shall include a reasonable rate of return on LRIC costs but the SMP operator shall not be obliged to charge on the basis of the LRIC until it has put in place the necessary accounting and management information systems which shall enable it to do so in accordance with a reasonable time table determined by the Authority... Pending the introduction of LRIC in accordance with this sub-rule the SMP operator's interconnection charges shall be based, **as far as possible**, on cost-oriented interconnection charges for similar services provided by telecommunication operators in other countries providing comparable telecommunication services to those provided by the SMP operator" (emphasis added).

6.3. It is pertinent to mention here that the Appellant submitted its cost to the Authority for the services of installation, local calls, NWD calls and international outgoing & incoming calls, vide its letter No. Dir(tariff)/cost unbundling/2003 dated 16 October 2003, which were based on fully allocated historical costs. Later on, the Appellant revised its costing methodologies and communicated the revised results to the Authority vide its letter No. DD(Tariff) 101/2004 dated 21 August 2004.

6.4. However, the charges proposed by the Appellant in its RIO were based on international benchmarks on the grounds that the reliable and accurate cost based charges were not available with the Appellant. In response to the Appellant's RIO, the telecom operators gave their comments on the RIO including interconnection charges. The operators countered the Appellant's proposed charges with their own cost analysis for the provision of EIs, call origination, termination and transit services, alongwith Domestic Private Leased Circuit (DPLC), and International Private Leased Circuit (IPLC).

## **7. ANALYSIS OF THE APPELLANT'S PROPOSED INTERCONNECTION CHARGES**

7.1. The Authority deliberated, at length, the proposals put forward by both the parties. In the light of relevant provisions of the Act, the Rules, and the Guidelines the Authority is of the view that every proposal extended by the Appellant is not binding *per se* on the Authority in its original form. The Authority is obligated under the provisions of the Act to be judicious and objective while taking decisions which, among other, include the protection of rights of licensees; protection of interests of the users and consumers of the telecommunication services; promotion of rapid modernization of telecommunication system and services; and promotion of wide range of high quality, efficient, cost effective and competitive telecommunication services throughout Pakistan.

7.2. With regard to interconnection charges, the Authority is of the view that although the primary factor for determining the said charges, as given in the Rules and the Guidelines, is cost, however, international benchmarks can be used where cost-based charges could not be determined. Moreover, even the international benchmarks *per se* are

not binding on the Authority as alleged by the Appellant since the Rules state that pending the introduction of LRIC the SMP operator's interconnection charges shall be based, **as far as possible**, on international benchmarks. Hence the Authority is of the considered opinion that while determining the interconnection charges it is fully mandated to apply its mind coupled with the factors as mentioned in rule 13 (11) of the Rules. Furthermore, the Authority also believes that a lot of time and efforts have been put by all the stakeholders to achieve consensus on the Appellant's RIO. The issues on which consensus could not be developed by the parties, the Authority has to issue its determination as per the provisions of the Act, the Rules and the Regulations and Interconnection Guidelines.

7.3. The Authority, in determining the final interconnection charges, considered the Appellant's benchmarking exercise and also undertook its own benchmark study which was shared with the Appellant. The Authority took into account the updated data of interconnection charges prevailing in other countries including India, Sri Lanka, Malaysia, Denmark, France, Ireland, UK, Germany, Italy, Greece, Sweden, Spain, New Zealand, Chile, Portugal, Belgium, Austria, Luxemburg, Finland, Peru, Mexico, Morocco, Algeria, Australia and Bolivia, in order to have a more appropriate range of interconnection charges. The Authority also considered the cost analysis done by both the Appellant and the telecom operators and is of the view that although there is a scope for improvement in the Appellant's costing methodologies, yet the results of the cost study can be used as a reference for the determination of final interconnection charges. However, the costing exercise done by the telecom operators was mainly based on partial information of the Appellant's business, hence do not represent the actual total cost of the Appellant. Moreover, the approach used by the telecom operators does not recognize all relevant cost items for the determination of a given service cost and therefore results in understatement of the interconnection charges. It is also pertinent to mention that the Authority also engaged a Consultant from the International Telecommunication Union (ITU) for the purpose of recommending the level of interconnection charges for the Pakistan telecom sector. The recommendations of the Consultant were also taken into account by the Authority while determining the final interconnection charges.

7.4. The interconnection charges, as proposed by the Appellant in its RIO, on which the consensus could not be developed between the Appellant and the telecom operators are discussed and analysed below:

#### **Origination and Termination Charges**

7.4.1. The following per minute charges were proposed by the Appellant for call origination and termination services for the year 2004:

<b>Call Type</b>	<b>Peak</b>	<b>Off Peak – 1</b>	<b>Off Peak – 2</b>
Metropolitan	Rs. 0.65	Rs. 0.58	Rs. 0.41
National 25-80 Km	Rs. 1.50	Rs. 0.78	Rs. 0.44
National 80-160 Km	Rs. 2.17	Rs. 1.24	Rs. 0.62
National >160 Km	Rs. 2.39	Rs. 1.85	Rs. 0.94

7.4.2. Keeping in view the current price level of the Appellant, the Authority is of the view that these charges would not result in sufficient margin to new operators, which shall ultimately affect the growth of fair competition in the sector. The Appellant's cost results, the benchmarking study undertaken by the Authority and the ITU Consultant also suggest lower origination/termination charges.

#### **Transit Charges**

7.4.3. The following per minute transit charges, as suggested by the Appellant, were based on the Appellant's proposed origination and termination charges and were only provided for Peak times, except for metropolitan transit charges:

<b>Call Type</b>	<b>Peak</b>	<b>Off Peak – 1</b>	<b>Off Peak – 2</b>
Metropolitan	Rs. 0.10	Rs. 0.09	Rs. 0.06
National 25-80 Km	Rs. 0.85		
National 80-160 Km	Rs. 1.52		
National >160 Km	Rs. 1.74		

7.4.4. The Authority, though agrees with the basis of determining the national transit charges, is of the view that the Appellant should offer transit charges for both peak and

off-peak timings, as is the case with origination/termination charges. The said view of the Authority was also agreed by the Appellant.

### **Domestic Private Leased Circuits (DPLC) Charges**

7.4.5. The Appellant proposed the following annual charges for the provision of DPLC for the year 2004:

<b>Capacity</b>	<b>25-80KM</b>	<b>80-100KM</b>	<b>100-160KM</b>	<b>160-200KM</b>	<b>200-600KM</b>	<b>&gt;600KM</b>
<b>2M</b>	Rs 5,375	Rs 5,375	Rs 4,608	Rs 4,608	Rs 4,002	Rs 3,524
<b>8M</b>	Rs 22,195	Rs 22,195	Rs 19,024	Rs 19,024	Rs 16,521	Rs 14,549
<b>34M</b>	Rs 66,566	Rs 66,566	Rs 57,072	Rs 57,072	Rs 49,562	Rs 43,646
<b>155M</b>	Rs 233,042	Rs 233,042	Rs 199,751	Rs 199,751	Rs 173,467	Rs 152,761

7.4.6. The Authority observes that the proposed charges would result in discriminatory pricing by the Appellant in providing the DPLC service to LL/LDI operators in comparison to ISPs/DNOPs. At present, ISPs/DNOPs are being offered the 2Mb DPLC at Rs. 2,536 per Km per annum, while the same is being offered to new LL/LDI operators at Rs. 5,375 per Km per annum by the Appellant.

7.4.7. In addition, the Authority also observes that the cascading structure of DPLC charges for LL & LDI operators is also different from that of ISPs/DNOPs, which needs immediate adjustments. Moreover, with the foreseeable convergence of voice and data service and to create level playing field among all telecom operators, it is important that the discriminatory gap between the two services should be removed preferably or at least narrowed down immediately.

### **E1 Charges**

7.4.8. The Appellant in its RIO proposed the initial charge per E1 at Rs. 85,500 and the fixed annual charge per E1 at the level of Rs. 5,700.

7.4.9. The Authority is of the view that initial charge of Rs. 85,500 is high as compared to charges prevalent in neighboring countries. Moreover, these charges are quite high vis-

à-vis the current Primary Port Interface (PRI) charges for ISPs & DNOPs which stand at the level of Rs. 15,500.

### **Transmission Capacity Charges**

7.4.10. The Transmission Capacity Charges as proposed by the Appellant were are under:

<b>Initial charge per link</b>	<b>Fixed Annual Charge per link per annum</b>	<b>Distance dependant annual charge (per link per km per annum)</b>
Rs. 57,000	Rs. 114,000	Rs. 2,280

7.4.11. The Authority is of the considered view that as the Transmission Capacity Charges are to be shared by both the parties in proportion to their traffic, the downward revision in the said charges would thus benefit both the Appellant and the telecom operators. The basis for determining the distance dependant annual charge was agreed with the Appellant at half of the charge for 2 Mb DPLC for the initial slab.

### **Carrier Pre-selection Charges**

7.4.12. The two components of the Appellant's proposed carrier pre-selection charges include: one-off charge per operator at Rs. 410,000 and one-off charge per line at Rs. 230.

7.4.13. The Authority is of the considered opinion that in order to promote the fair competition in the sector, carrier pre-selection charges should be set at a level that would allow the consumers to select the carriers of their choice at affordable price. Hence the proposed charges are required to be rationalized to the appropriate level.

### **Testing Charge**

7.4.14 The testing charge proposed by the Appellant was at the level of Rs. 754 per person per day.

7.4.15 The Authority is of the view that the said formula may invite subjectivity and manipulation regarding the number of persons involved in testing. Therefore, for the purpose of simplicity and objectivity, it would be more appropriate and reasonable if the

testing charge depends on number of days only, and for that purpose the rate itself may be set at a higher level.

## **8. ORDER**

8.1. Based on the detailed analysis, alongwith the reasoning and rationale given in para 6 and 7 of the determination, ITU Consultant's recommendations, the discussions with the Appellant and the telecom operators during the hearing held on 28 April 2005, and deliberations within the Authority, the Authority hereby determines and approves the Appellant's (fixed-to-fixed) interconnection charges. The Authority hereby maintains the interconnection charges as decided in the earlier determination issued by the Authority on 6 December 2004 except the Metropolitan origination/termination charge for peak timings which is hereby revised and set at Rs. 0.52/- per minute (previously the same was set at Rs. 0.50/- per minute). Moreover, the Transit Charges (for peak timings) are also revised on the basis of revised origination/termination charge. The details of the approved charges alongwith details are given hereunder:

### **Origination and Termination Charges**

8.1.1. The origination and termination charges for fixed-to-fixed calls shall be as follows:

<b>Call Type</b>	<b>Peak Rs/min.</b>	<b>Off Peak -1 Rs/min.</b>	<b>Off Peak -2 Rs/min.</b>
Metropolitan	0.52	0.40	0.30
National 25-80km	0.85	0.43	0.32
National 80-160km	1.25	0.70	0.35
National >160km	1.35	1.03	0.52

However, the Appellant and telecom operators may mutually agree on the average per minute charge, independent of time zones if they wish to do so, subject to approval of the Authority.

### **Transit Charges**

8.1.2. The transit charges, with Peak and Off-Peak timings, shall be as under:

<b>Call Type</b>	<b>Peak Rs/min.</b>	<b>Off Peak –1 Rs/min.</b>	<b>Off Peak –2 Rs/min.</b>
Metropolitan	0.10	0.07	0.05
National 25-80km	0.33	0.23	0.16
National 80-160km	0.73	0.50	0.36
National >160km	0.83	0.59	0.42

However, the Appellant and telecom operators may mutually agree on the average per minute charge, independent of time zones, subject to approval of the Authority.

### **DPLC Charges**

8.1.3. The following DPLC charges shall be applicable:

<b>Capacity</b>	<b>0-100KM If exceeds 25 Km</b>	<b>0-200KM If exceeds 100 Km</b>	<b>0-600KM If exceeds 200 Km</b>	<b>0-&gt;600KM If exceeds 600 Km</b>
2Mb	Rs 4,000	Rs 3,318	Rs 3,047	Rs 2,800
8Mb	Rs 13,552	Rs 11,613	Rs 10,664	Rs 9,800
34Mb	Rs 46,464	Rs 39,816	Rs 36,564	Rs 33,600
155Mb	Rs 162,624	Rs 139,356	Rs 127,974	Rs 117,600

### **E1 Charges**

8.1.4. The Authority hereby approves Rs. 60,000 to be the initial charge per E1. However, annual charge per E1 shall be the same as proposed by the Appellant i.e. Rs. 5,700.

### **Transmission Capacity Charges**

8.1.5. The Transmission Capacity Charges shall be as follows:

<b>Initial charge per link</b>	<b>Fixed Annual Charge per link per annum</b>	<b>Distance dependant annual charge (per link per km per annum)</b>
Rs. 40,000	Rs. 80,000	Rs. 2,000

#### **Carrier Pre-selection Charges**

8.1.6. The one-off charge per operator for carrier pre-selection shall be Rs. 300,000 and one-off charge per line shall be Rs. 150.

#### **Testing Charge**

8.1.7. The testing charge shall be Rs. 2,000 per day.

8.1.8. Any interconnection charge, not mentioned hereinabove, but given in the RIO, is hereby approved at the level as given in the Appellant's approved RIO.

8.2. All charges, including but not limited to those mentioned above, as given in the approved RIO shall remain effective till 30 June 2006 unless earlier revised through determination or decision in writing by the Authority. In case the Authority does not revise these charges by or after the due date i.e. 30 June 2006, the interconnection charges, as approved in this determination, shall remain in full force till the issuance of next such determination or decision in writing by the Authority.

8.3. The Authority hereby approves the Appellant's RIO after necessary modifications. The duly modified and approved RIO along with its schedules is attached with this Determination.

8.4. The Appellant as well as the telecom operators are hereby directed to replace their interim interconnection agreements with the 'approved RIO' retrospectively i.e. from the date of execution of the interim agreements.

8.5. The Appellant is hereby directed to adjust the excess amounts received on account of interconnection charges within sixty days of this determination on mutually agreed terms with the telecom operators.

**(Chairman)**

**Member (Finance)**

This determination is signed on this \_\_\_ day of \_\_\_ 2005 and comprises of 19 pages.