

PAKISTAN TELECOMMUNICATION AUTHORITY  
HEAD QUARTERS, F-5/1. ISLAMABAD

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[www.pta.gov.pk](http://www.pta.gov.pk)

Pakistan Telecommunication Company Limited...

Appellant

Versus

Director General (Commercial Affairs), Pakistan Telecommunication Authority...

Respondent

**APPEAL UNDER SECTION 7 (2) OF PAKISTAN TELECOMMUNICATION  
(RE-ORGANIZATION) ACT 1996 AGAINST THE DIRECTIVE OF  
DIRECTOR GENERAL (COMMERCIAL AFFAIRS) REGARDING  
ABOLISHING OF BROADBAND LINE RENT**

Date of preferring the Appeal: through covering letter of  
the Appellant dated 14.04.2006  
Date of hearing : 01.02.2007  
Venue of hearing : Auditorium Hall, PTA  
HQs, Islamabad

The Authority present:

S. Nasrul Karim Ghaznavi: Member  
Dr. Muhammad Yaseen: Member

The Issue:

"Abolishing Broadband line rent by PTCL by 30th April, 2006"

**Decision of the Authority**

**Brief facts:**

Through this appeal under sub-section (2) of section 7 of the Pakistan Telecommunication (Re-organization) Act, 1996 (the "Act") M/s Pakistan Telecommunication Company Limited (the "Appellant") has impugned the order of the Director General (Commercial Affairs) (the "officer of the Authority") communicated to the former vide letter No. 15-5/99(Tariff)/PTA/643 dated 16th March, 2006 (the "impugned order") vide which the officer of the Authority has directed the Appellant to abolish the broadband line rent by 30th April, 2006 and inform the Authority accordingly and that this concession will be passed on by the DSL operators to their customers to encourage the use of broadband services in Pakistan.

2. Being aggrieved of the impugned order the Appellant filed the appeal dated 14<sup>th</sup> April, 2006 under section 7(2) of the Act.

**Hearing of the Appeal:**

3. The appeal was heard on 1st February, 2007.

4. Mr. Gul Ahmad, GM (Regulatory Affairs), Mr. Sajjad Ahmad GM (Cost Accounts), Mr. Zakir Hussain Satti, Director (Interconnection), Mr. Ikram-ul-Haq (Legal Advisor) and Sardar Iman Qaisrani represented the Appellant and presented the Appellant's case before the Authority. Member (Finance) PTA requested the Appellant to present its case. Mr. Gul Ahmad took the stance that it has been falsely alleged in the impugned order that the Appellant had already agreed that Broadband line rent would be reduced in a phased manner and eventually be abolished.

5. The Appellant stated that the issue of broadband line rent was earlier discussed in a meeting held on 15<sup>th</sup> November 2005 in PTA. The stance of the Appellant was manifestly put forward in the said meeting, whereby, it was categorically stated that the Appellant was not in a position to further reduce or completely eliminate the requirement of line rent being charged from the DSL operators, but the minutes of the above meeting were not shared with the Appellant to ensure correct recording of the Appellant stance. He further stated that Para 3 of the impugned order states, "It was agreed that PTCL will reduce the line rent in a phased manner with the target to eventually abolish it" is exhaustively incorrect and is vehemently denied. In fact, Officials representing the Appellant did not agree to any such arrangement. The Appellant further submitted that acceptance of such demand of reduction or abolishing Broadband line rent is a major policy issue, which would be decided in the Board meeting of the Appellant. The Appellant further asserted that the impugned order has financial and economic impact and revenue loss to GOP, the Appellant and its shareholders including general public. This heavy loss in revenue will not only affect adversely the business of the Appellant but also serve as a causal link to reduce teledensity in cities and far-flung areas. The Appellant, therefore, requested the Authority that the impugned order should be set aside.

6. The Appellant further contended that the Authority had previously issued a determination dated June 23, 2006 on Bandwidth rates and the issue of broadband line rent was also decided in the aforesaid determination, which was set aside by the High Court vide its order dated 7th August, 2006 and was remanded back to the Authority for deciding the matter afresh within sixty (60) days. As the time period given by the Honorable Court has expired, therefore, taking up the instant matter for hearing at this stage time is against the decision of the Honourable High Court.

7. The Appellant further took the plea that:

(a). the Respondent i.e. (DG (Commercial Affairs) has not been delegated the power to issue such a policy directive;

(b). Broadband Policy, which in Clause 5.2.10 manifestly stipulates "the local loop owner has to be paid a rent for using its loop to encourage investment" has been violated;

(c). Sections 6 (a) of the Act makes it mandatory for the Respondent to ensure that the rights of licensees are protected. Again Section 26 (d) of the Act mandates reasonable rate of return on investment;

(d). The Appellant, in line with broadband policy, substantially reduced its line rent being charged from DSL operators from Rs. 670 / month to Rs. 250/ month thus the impugned order is unwarranted;

(e). The impugned order is violative of the business principles as it prohibits the Appellant to recover its costs by obligating the Appellant to offer its infrastructure free of cost to other operators and allow them to earn profits;

(f). In other countries including developed countries shared facilities are charged based on recovery of costs and return on investment, keeping in view that the shared line rent charged from other DSL service provider is not more than what incumbent allocates to its own DSL services without resorting to over recovery;

(g). The Appellant approximate allocation of cost to a copper loop per month is Rs. 500/- plus. The Appellant charges Rs 1747-month to its customers for voice services;

(h). The Appellant currently is not providing DSL services and not resorting to over recovery of cost;

#### **Decision of the Authority:**

8. The Appellant in its FAO. No. 126/2006 before Lahore High Court Rawalpindi Bench took the plea vide Para 14, 5(18) and 35(ii) of the petition that appeal against impugned order for abolishing the DSL line rent is already pending before the Authority for adjudication and the Authority has decided the issue without giving an opportunity of hearing. The High court vide its order dated 7th August, 2006 remanded the case with consent of the parties to the Authority for deciding afresh.

9. We would first like to take the appellant's objection regarding the Authority's decision on the issue in hand vide our early determination dated 23<sup>rd</sup> June, 2006 and remanding of the said determination back to the Authority for decision afresh in accordance with law within a period of sixty (60) days and the Authority's failure to decide the instant issue within the time frame given by the honorable High Court.

10. The Appellant's objection above mentioned is misplaced and seems to be an outcome of not appreciating properly the relevant facts and order of the honorable High Court.

11. When our previous determination of 23<sup>rd</sup> June, 2006 was remanded back to us by honorable High Court for decision afresh and the matter was reopened in light of the court's order, it was deemed appropriate to exclude the issue of abolishing of broadband line rent from the rest of the issues which were subject of our deliberation in our determination of 23<sup>rd</sup> June, 2006. Reasons for excluding the instant issue from the

rest of the issues and deciding the same separately through the instant hearing are two folds, (i) the respondent was not properly heard on the instant issue and (ii) there was an independent or separate appeal filed by the appellant, pending for adjudication with the Authority.

12. The foregoing two facts warrant hearing the appellant before passing any order on the issue and taking up the appellant's appeal filed on the subject, for adjudication by the Authority. It was also the appellant's objection before the High Court that since their appeal is pending with the Authority, subject matter of said appeal could not have been decided through the determination of 23-06-2006.

13. Abiding by the order of honorable High Court, the aforementioned legal requirements have been fulfilled by deciding the instant issue by taking up the appellant's appeal for hearing.

14. As far as impugned order is concerned (directive of DG (Commercial Affairs)), we allow the appellant's appeal on the ground of not affording proper opportunity of hearing to the appellant before passing the impugned order in view whereof the impugned order is set aside and the issue of broadband line rent is to be deliberated upon afresh in consultation with the industry and the stakeholders.

Appeal allowed.

16. This order/judgment is made today at this 6<sup>th</sup> day of March, 2007.

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(S. Nasrul Karim Ghaznavi)  
Member (Finance)

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(Dr. Muhammad Yaseen)  
Member (Technical)