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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

FIXED LINE TARIFF REGULATIONS, 2004

NOTIFICATION

Islamabad, the 9th July, 2004

S. R. O. 797(I)2004--In exercise of the powers conferred under Clause(O) of Sub-section (2) of Section 5 of the Pakistan Telecommunication (Re-organization) Act, 1996 (Act XVII of 1996), the Authority is pleased to make the following Regulations:

PART-I

Preliminary

1. **Short Title and Commencement.**—(1) These Regulations shall be called the “Fixed Line Tariff Regulations, 2004.”
(2) These shall come into force at once.
2. **Definitions.**—(1) In these Regulations, unless there is anything repugnant in the subject or context,
 - (a) “**Act**” means the Pakistan Telecommunication (Re-organization) Act, 1996 (XVII-1996);
 - (b) “**Authority**” means Pakistan Telecommunication Authority established under section 3 of the Act;
 - (c) “**Basket Service**” means a telecommunication service included in the basket of telecommunication services for price control purpose;
 - (d) “**Consumer Price Index**” means the index of consumer prices of selected commodities determined and published by the State Bank of Pakistan;
 - (e) “**LDI Operator**” means Long Distance and International Telephony operator, licensed to establish, machine and operate telecommunication system and provide Long Distance and International telecommunication services;
 - (f) “**LL Operator**” means Local Loop Operator licensed to establish, maintain and operate telecommunication system & provide local exchange services/limited mobility communication services;
 - (g) “**Mobile Communications Service**” means a wireless-based telecommunication service where the terminal equipment may be connected to the telecommunications system by wireless means and used while in motion;

- (j) **“Price Control Period”** means any consecutive twelve-month period starting from 1st of July and ending on 30th June;
 - (k) **“Regulations”** means the regulations made by the Authority under the Act;
 - (l) **“Rules”** means Pakistan Telecommunications Rules, 2000 and includes any subsequent amendments to these Rules made by the Federal Government;
 - (m) **“SMP Operator”** means an operator determined by the Authority as significant market power operator in the relevant market in accordance with the provisions of notified Rules; and
 - (n) **“Tariff”** means the rates, charges, terms and conditions for provision of telecommunication services.
- (2) Words and expressions used herein but not defined shall have the same meaning assigned to them in the Act.

PART II

TARIFF OF NON-SMP OPERATORS

3. Tariff of Non-SMP Operators.—(1) The Non-SMP operators are free to set and revise their tariffs at any time and in any manner they like.

Provided that they shall inform the Authority about their proposed tariffs thirty (30) days before the applicability of new tariffs.

(2) The Authority may make amendments to the tariffs of Non-SMP operators where the tariffs are considered to be unfair and burdensome.

Provided that:

- (i) the Authority on its own, or at the request of the affected consumers may initiate the enquiry to judge whether the tariffs are unfair and burdensome or not;
- (ii) the burden of proof shall be on the operators and they shall satisfy the Authority that the tariffs are not unfair or burdensome;
- (iii) the Authority, while making decision, shall keep in view the cost of operators, affordability of consumers, tariff of other operators in similar circumstances etc.

(3) The decision of the Authority in this respect shall be final and binding on the operators.

PART III

TARIFF OF SMP OPERATORS

4. Tariff of LL Operator. — (1) The LL Operator, who is determined to have SMP status in a LL fixed line telecommunication market by the Authority, shall ensure that in each consecutive twelve-months period (t), the weighted average price increase charged for the Local Loop Basket Services shall be fixed so as to satisfy the criteria in the following formula hereinafter referred to as the “LL Price Control Formula”, namely:

$$1 + \frac{\sum W_i \times (P_i^t - P_i^{t-1})}{\sum P_i^{t-1}} < \frac{CPI^{t-1} - X_{LL}}{CPI^{t-2} - 100}$$

(2) The LL Operator shall also ensure that in each Price Control Period (t), the price for each individual Local Loop Basket Service specified in Schedule ‘A’ shall be fixed so as to satisfy the criteria in the following formula hereinafter referred to as the “LL Individual Service Price Control Formula”, namely: -

$$1 + \frac{P_i^t - P_i^{t-1}}{P_i^{t-1}} < \frac{CPI^{t-1} + Z}{CPI^{t-2} - 100}$$

(3) For the purpose of sub-regulation (1) and (2) the expression:

- (i) “CPI” denotes the consumer price index published by the State Bank of Pakistan; —
- (ii) “CPI^{t-1}” denotes the geometric average level of the CPI for the Price Control Period (t – 1);
- (iii) “CPI^{t-2}” denotes the geometric average level of the CPI for the Price Control Period (t – 2);
- (iv) “P_i^{t-1}” denotes the geometric average price of Local Loop Basket Service i in the Price Control Period (t – 1);
- (v) “P_i^t” denotes the geometric average price of Local Loop Basket Service i in the current Price Control Period (t);

- (vi) "W_i" denotes the revenues of Local Loop Basket Service i in the latest financial year;
- (vii) "W" denotes the total revenues of all Local Loop services in the latest financial year;
- (viii) "X_{LL}" denotes the Productivity Factor of LL services determined by the Authority in accordance with regulation 7 and mentioned in Schedule 'C';
- (ix) "Z" denotes the Individual Service Cap determined by the Authority in accordance with regulation 7 and mentioned in Schedule 'C'.

5. Tariff of LDI Operator.—(1) The LDI Operator, who is determined to have SMP status in a LL fixed line telecommunication market by the Authority, shall ensure that in each consecutive twelve-months period (t), the weighted average price increase charged for the Long Distance and International Basket Services shall be fixed so as to satisfy the criteria in the following formula hereinafter referred to as the "LDI Price Control Formula", namely: -

$$1 + \frac{W_i x}{W} \frac{P_i^t - P_i^{t-1}}{P_i^{t-1}} < \frac{CPI^{t-1}}{PI^{t-2}} - \frac{X_{LDI}}{100}$$

(2) The LDI Operator shall also ensure that in each Price Control Period (t), the price for each individual Long Distance and International Basket Service specified in Schedule 'B' shall be fixed so as to satisfy the criteria in the following formula hereinafter referred to as the "LDI Individual Service Price Control Formula", namely: -

$$1 + \frac{P_i^t - P_i^{t-1}}{P_i^{t-1}} < \frac{CPI^{t-1}}{CPI^{t-2}} + \frac{Z}{100}$$

(3) For the purpose of sub-regulation (1) and (2) the expression:

- (i) "CPI" denotes the consumer price index published by the State Bank of Pakistan;
- (ii) "CPI^{t-1}" denotes geometric average level of the CPI for the Price Control Period (t - 1);
- (iii) "CPI^{t-2}" denotes the geometric average level of CPI for the Price Control Period (t - 2);

- (iv) “ P_i^{t-1} ” denotes the geometric average level of price of Long Distance and International Basket Service i in the Price Control Period $(t - 1)$;
- (v) “ P_i^t ” denotes the geometric average level of price of Long Distance and International Basket Service i in the current Price Control Period (t) ;
- (vi) “ W_i ” denotes the revenues of Long Distance and International Basket Service i in the latest financial year;
- (vii) “ W ” denotes the total revenues of all Long Distance and International Basket services in the latest financial year;
- (viii) “ X_{LDI} ” denotes the Productivity Factor of LDI services determined by the Authority in accordance with regulation 7 and mentioned in Schedule ‘C’;
- (ix) “ Z ” denotes the Individual Service Cap determined by the Authority in accordance with regulation 7 and as mentioned in Schedule ‘C’.

6. Price Flexibility. —(1) The Operators shall be free, within the restrictions imposed under these Regulations, to change the prices of respective Basket Services at any date and any frequency.

Provided that they shall inform the Authority about their proposed tariffs thirty (30) days before the applicability of new tariffs.

(2) The Authority may decline the proposal or make amendments to the proposed tariffs if the proposed tariffs are considered to be anti-competitive. Provided that:

- (i) the Authority on its own, or at the request of the affected parties may initiate the enquiry to judge whether the tariffs are anti-competitive or not;
- (ii) the burden of proof shall be on the operators and they shall satisfy the Authority that the tariffs are not anti-competitive;
- (iii) the Authority, while making decision, shall keep in view the cost and profit margin of operators, tariff of other operators in similar circumstances etc.

(3) The decision of the Authority in this respect shall be final and binding on the operators.

7. Productivity Factors (X) and Individual Service Cap (Z) . —(1)

The Local Loop Productivity Factor (X_{LL}), Long Distance and International Productivity Factor (X_{LDI}) and Individual Service Cap (Z) shall be determined by the Authority for each period of four years.

(2) The ' X_{LL} ', ' X_{LDI} ' and 'Z' for each Price Control Period comprised in each subsequent period of four years shall be determined by the Authority not later than three months before each subsequent period of four years commences.

(3) The Operators shall submit to the Authority, not later than six months before each subsequent period of four years, their proposal regarding the value of ' X_{LL} ', ' X_{LDI} ' and 'Z' for the subsequent period of four years along with supporting data.

Provided that such proposals shall be supported by relevant facts and figures.

(4) The Authority, while approving/determining the value of ' X_{LL} ', ' X_{LDI} ' and 'Z', shall take into account the productivity factors in telecommunication sector and international practices.

(5) The Authority may review the value of 'X' and 'Z' during the four-year period keeping in view the affordability of consumers, efficiency and profitability of operators and the state of competition in the market.

(6) The Authority may, on its own or at the request from the operators/consumers, relax/tight the price ceilings where the values of 'X' or 'Z' prove to be too high/low.

(7) The Authority, while making decision under sub-regulation (6) above, shall consider the particular circumstances of each case, the cost and profitability of operators, the affordability of consumers, the tariff of other operators in similar circumstances etc.

(8) In order to provide predictability and flexibility to operators in setting tariffs, the Authority shall only use the powers, given in sub-regulation (6) above, in exceptional cases.

(9) As the market become more competitive, the Authority shall relax the regulatory conditions and obligations on the operators.

8. Initial Prices. —(1) Initial tariff of the existing SMP operators for each individual service, for the purpose of these Regulations, shall be the price prevailing on the last day before the next Price Control Period.

(2) Initial price of new entrants becoming SMP operator, for each individual service, shall be the tariff allowed to existing SMP operator(s) in the respective region.

9. Restatement of CPI.—If the CPI is restated by the State Bank of Pakistan in respect of any twelve-months period such that the difference between the factors by which price could be increased in respect of the relevant Price Control Periods before and after the restatement is, in the opinion of the Authority, material, it shall consider whether that difference shall be carried forward to subsequent Price Control Periods such that prices in all or any of those Price Control Periods, without prejudice to the application of the LL Price Control Formula or LDI Price Control Formula for those Price Control Periods can be increased or decreased to take account of that difference to the extent not taken into account in any previous Price Control Period.

10. Changes to the Basket Services. —(1) Subject to sub-regulations (2) and (3), the Operators shall be entitled to add or replace a telecommunication service in respect of the Basket Services only if that telecommunication service is either:

- (a) wholly or substantially in substitution of an existing telecommunication service; or
- (b) a packaged offering of existing telecommunication services or of elements of existing telecommunication services.

(2) The Operators shall notify to the Authority in writing of its intention to add or replace a telecommunication service in respect of the Basket Services pursuant to sub-regulation (1), together with the proposed basis on which the Price Control Formula shall apply to that telecommunication service not later than thirty days in advance of the Price Control Period in which it proposes to implement that change to the Basket Services.

(3) For the avoidance of doubt, it is clarified that the Operator shall be free to introduce any number of different tariff packages for provision of existing telecommunication services that it wishes, provided that all such prices comply with these Regulations.

(4) The Authority may, in its absolute discretion accept or reject the proposed basis on which the Price Control Formula shall apply to that telecommunication service.

(5) The Authority shall inform the Operator in writing of its acceptance or rejection of the changes to the Local Loop and Long Distance & International Basket Services proposed by the Operator pursuant to sub-regulation (1) within one month from being notified in accordance with sub-regulation (2).

11. Leased Lines tariff.—(1) The tariff for leased lines services shall be based on cost. Until the determination of cost, the Authority may take into account the international benchmarks of comparable countries while setting/approving tariff of leased lines.

(2) The Operators may set the tariff of leased lines below the approved tariff.

Provided that they shall inform the Authority about their proposed tariff thirty (30) days before the applicability of new tariff.

(3) Any increase in the tariff of leased lines shall have to be approved by the Authority.

Provided that the operators shall submit the detailed cost analysis to justify the increase in tariff of leased lines.

12. Internet Calls.—The Operators shall provide dial-up internet calls e.g. 131 calls, without multi-metering.

13. Sales or Value-Added Taxes.—Prices set pursuant to these Regulations are exclusive of any sales or value-added, which may be levied under the relevant law.

14. Publication of Prices.—(1) The Operators shall publish their tariffs in their tariff manual, tariff brochures as well as on their web sites.

(2) There shall be no hidden charges and the information should explicitly show the tariffs of each individual service, along with peak and off-peak timings.

PART IV

SUBMISSION OF INFORMATION TO THE AUTHORITY

15. Financial Statements.—Each operator shall submit its annual audited financial statements comprising balance sheet, income statement, cash flow statement,

statement of changes in capital together with the notes forming part thereof, to the Authority within four months of the closing date of its financial year.

16. Other Information.—The operators shall provide any other information, which is required by the Authority from time to time, for the purpose of determining tariffs.

SCHEDULE 'A'

LOCAL LOOP BASKET SERVICES

The following components of service shall be comprised in the Local Loop Basket Services, namely:—

1. Installation Services

The installation and bringing into service of connections to the public fixed switched network.

2. Line Rental Services

The provision and maintenance of connections to the public fixed switched network.

3. Local Call Services

(1) Calls made over the public fixed switched network from Customer Premises Equipment or Public Payphones to Customer Premises Equipment, or to equipment connected to a public mobile switched network within the same local call area defined by the Authority from time to time.

(2) Calls made over the public fixed switched network from Customer Premises Equipment or Public Payphones to Customer Premises Equipment, Public Payphones or to equipment connected to a public mobile switched network between municipalities within the same region.

(3) Directory information services.

4. Other Mandatory Services

Any other service that the Operator requires its customers to acquire from it in order to receive or continue to receive any of the services described in clause 1,2, and 3 of this Schedule.

5. Excluded Services

The following services are not included in the Basket Services, namely:—

- (a) interconnection services;
- (b) the supply of Customer Premises Equipment;
- (c) services that are eliminated from the Basket Services from time to time in accordance with the provisions of regulation 10.

SCHEDULE 'B'**LONG DISTANCE AND INTERNATIONAL BASKET SERVICES**

The following components of service shall be comprised in the Long Distance and International Basket Services, namely: -

1. NWD Call Services

- (1) Calls made over the public fixed switched network from Customer Premises Equipment or Public Payphones to Customer Premises Equipment, Public Payphones or to equipment connected to a public mobile switched network within regions in Pakistan.

2. International Call Services

- (1) Outgoing international calls, being calls made over the public fixed switched network from Customer Premises Equipment or Public Payphones to the public switched network of an operator in another country.

3. Other Mandatory Services

- (1) Any other service that the Operator requires its customers to acquire from it in order to receive or continue to receive any of the services described in clause 1,2, and 3 of this Schedule.

4. Excluded Services

- (1) The following services are not included in the Basket Services, namely:—
 - (d) interconnection services;
 - (e) the supply of Customer Premises Equipment;

- (f) services that are eliminated from the Basket Services from time to time in accordance with the provisions of regulation 10.

SCHEDULE 'C'

LOCAL LOOP PRODUCTIVITY FACTOR (X_{LL}), LONG DISTANCE & INTERNATIONAL PRODUCTIVITY FACTOR (X_{LDI}) AND INDIVIDUAL SERVICE CAP (Z)

1. Local Loop Productivity Factor (X_{LL})				
Year:	Period I	Period II	Period III	Period IV
	5.0	5.0	5.0	5.0
2. Long Distance and International Productivity Factor (X_{LDI})				
Year:	Period I	Period II	Period III	Period IV
	5.0	5.0	5.0	5.0
3. Individual Service Cap (Z)				
(i) Installation Charges:				
Year:	Period I	Period II	Period III	Period IV
	10.0	10.0	10.0	10.0
(ii) Line Rental Charges:				
Year:	Period I	Period II	Period III	Period IV
	0.0	0.0	0.0	0.0
(iii) Local Call Charges:				
Year:	Period I	Period II	Period III	Period IV
	5.0	5.0	5.0	5.0
(iv) NWD Call Charges:				
Year:	Period I	Period II	Period III	Period IV
	0.0	0.0	0.0	0.0
(v) International Outgoing Call Charges:				
Year:	Period I	Period II	Period III	Period IV
	0.0	0.0	0.0	0.0

Sd/-

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