



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 against, ADG LDI (Pvt.) Ltd.

Date of Issuance of Show Cause Notice: 16th March, 2011
Venue of Hearings: PTA HQs, Islamabad
Dates of Hearings: 20th May, 2011
2nd June, 2011

The Authority present:

Dr. Mohammed Yaseen Chairman
Dr. Khawar Siddique Khokhar Member (Technical)

The Issue:

“Failure to pay Annual Regulatory Dues of Rs.4,846,777/- for the year ended 30 June, 2010”

DECISION OF THE AUTHORITY

BRIEF FACTS:

1.1 M/s ADG LDI (Pvt.) Limited (formally DV Com LDI (Pvt.) Ltd.) (the “licensee”) was awarded non-exclusive license No.LDI-08 (08) dated 12th August, 2004 (the “license”) by Pakistan Telecommunication Authority (the “Authority”), to establish, maintain and operate telecommunication system and to provide telecommunication services in Pakistan on terms and conditions contained in the license.

2.1 The licensee under the terms and conditions of the license is required to pay Annual Regulatory Fee (i.e., ALF, R&D and USF). The licensee vide letters dated 14th December, 2010 and 27th December, 2010 was required to pay Annual Regulatory Fees and Contributions (i.e., ALF, R&D and USF) for the years ended 30th June, 2010 but in vain.

2.2 Non-payment of outstanding dues for the years as stated above tantamount to contravention/violation of license condition No.4.1.2 (a), 4.1.3, 4.2.1, 4.2.2, and 4.2.3, read with sub-regulation 6 & 7 of regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006. Resultantly, due to aforementioned violation and contravention SCN dated 16th March, 2011 under section 23 of the Act was issued to the licensee.

2.3 In accordance with the SCN, the licensee was required to remedy the contravention by making payment of Rs.4,846,777/- (Rupees Four million, eight hundred and forty six thousand, seven hundred and seventy seven) inclusive of Late Payment Charges calculated @ 2% per month up to 28th February, 2011, but in vain. It would be pertinent to mention here that the licensee neither paid the amount nor paid any heed to reply to the SCN within the stipulated time given in the SCN.

2.4 In order to proceed further, the matter was fixed on 20th May, 2011 for giving a hearing opportunity to the licensee which was adjourned on the request of the Licensee and was again fixed on 2nd June, 2011. Barrister Gohar Ali Khan attended the hearing on the said date. He contended that quorum of the Authority is not complete. The matter should be heard by the Authority which consists of three members as per the Act. In addition, the licensee argued that for the purposes of calculation of Annual Regulatory Dues, the PTA/FAB mandated payments allowed as a deduction from the Gross Revenue, should be taken from the financial statements of the licensee, which have been calculated on accrual basis.. Thus it claimed that calculation of dues is not in line with accounting principles applicable on companies.

2.5 The Authority replied that in accordance with regulation 44-A of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 read with section 3(10) of Act, the present Authority is competent to hear the case. However, as far as calculation of Annual Regulatory Dues are concerned, the licensee's claim is not valid on the grounds that the Authority calculates the Annual Regulatory Dues by allowing PTA/FAB mandated payments on actual payment basis as provided in clause 4.1.2 of the LDI license and not on accrual basis as claimed by the licensee, and the same is applicable across the board. Furthermore, accrual does not mean payment. All licensees are dealt with accordingly. Thus the licensee's concern with respect to calculation of dues in the light of audited accounts is not maintainable.

3. ORDER

3.1. Keeping in view the above mentioned facts coupled with the available record, it is observed that the licensee has miserably failed to pay the Annual Regulatory Dues amounting to Rs.4,846,777/- for the year ended 30 June, 2010, which is a grave and persistent contravention of the license terms and condition as stated above.

3.2 Therefore, the licensee i.e., M/s ADG LDI (Pvt.) Limited is directed to pay the outstanding amount of Rs. 4,846,777/- along with further late payment charges accrued @ 2% per month till the date of payment within seven (7) days from the date of issuance of this enforcement order.

3.3 In case of non-compliance of direction as stated above (i.e., para 3.2), the license bearing No. LDI-08 (08) dated 12th August, 2004 awarded to M/s ADG LDI (Pvt.) Limited *formally DV Com LDI (Pvt.) Ltd* shall stand suspended without further notice and recovery proceedings under section 30 of the Act shall be initiated by the Authority against the licensee for recovery of all payable dues as arrear of land revenue.

Dr. Khawar Siddique Khokhar
Member (Technical)

Dr. Mohammed Yaseen
Chairman

This enforcement order is signed on _____ and comprises of 02 pages.