



PAKISTAN TELECOMMUNICATION AUTHORITY
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**Enforcement Order Under Sub-section 3 of Section 23 of the Pakistan Telecommunication
(Re-organization) Act, 1996 against Gem Net Broadband Services (Pvt.) Limited**

File No. PTA/Finance/Finance/DCNS/ Defaulters/1088/2010

Date of Issuance of Show Cause Notice: 14th April, 2011
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 14th June, 201, 22nd July, 2011 and
22nd Sep., 2011

The Authority present:

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

The Issue:

“Non-provision of Annual Audited Accounts along with Annual License Fee including Late Payment Additional Fee @ 2% per month or part thereof for the years ended on 30th June, 2007 to 2010”

EX-PARTE DECISION OF THE AUTHORITY

1. Brief facts of the case:

1.1 Gem Net Broadband Services (Pvt.) Ltd (the “licensee”) was awarded non-exclusive license No. Dir(C)/L/CVAS-05/PTA/2006 dated 19th January, 2006 (the “license”) by Pakistan Telecommunication Authority (the “Authority”), to provide Data Class Value Added Services in the province of Sindh Subject to the terms and conditions contained in the license.

1.2 The licensee, under license condition No.3 of the license, was obliged to submit Annual Audited Financial Statement and summary of accounts within three months. As per sub-regulation 1 of regulation 11 of the Class Licensing and Registration Regulations, 2007 the licensee is required to pay Annual License Fee to the Authority calculated on the basis of percentage of the Licensee’s Annual Gross Revenue from Licensed Services for the most recently completed Financial Year minus Inter-operator payments from the effective date of the license as decided by the Authority from time to time provided that the annual charges shall be payable for subsequent years. In case of late payment of any fee the licensee is obliged to pay on the outstanding amount an additional fee at the rate of 2% per

month or part thereof under sub-regulation (6) and (7) of the regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006.

1.3 The licensee vide PTA's letter dated 26th October, 2009, 16th November, 2009 and 18th February, 2011 was required to submit Annual Audited Accounts (AAAs) along with the payment of Annual License Fee (ALF) including Late Payment Additional Fee @ 2% per month or part thereof for the years ended 30th June, 2007 to 2010 but the same was not complied with. Resultantly, due to contravention of the said license condition read with applicable regulations, the Authority under section 23 of the Pakistan Telecommunication Authority (Re-organization) Act, 1996 (the "Act") issued a Show Cause Notice (SCN) on 14th April, 2011 to the licensee.

1.4 The licensee under SCN was required to remedy the said contravention by submitting AAAs along with the payment of related ALF including late payment additional fee for the year ended 30th June, 2007 to 2010 within seven days and also directed to explain in writing within 30 days of the issuance of SCN as to why the license should not be suspended, terminated or any other enforcement order should not be passed against the licensee under section 23 of the Act. The licensee did not remedy the contravention within stipulated time i.e., 30 days.

1.5 Before passing an enforcement order under sub-section 3 of section 23 the Act the matter was fixed for hearing on 14th June, 2011, 22nd July, 2011 and lastly on 22nd September, 2011. It would be pertinent to mention here that on the request of the licensee the hearing was adjourned and rescheduled however, the licensee did not attend the hearing on the 22nd September, 2011. Moreover, despite PTA's letter dated 11th July, 2011 the licensee has not provided any time line for submission of AAAs and payment of outstanding dues for the year ended June, 2007 to 2010. The licensee vide letter dated 18th July, 2011 informed that it will provide final Audited Financial Statements shortly, however the same has not yet been provided.

1.6. In light of the aforementioned it is concluded that several opportunities have been given to the licensee but the licensee has failed to comply with the same. Such conduct of the licensee in terms of fulfillment of obligations contained in the license is non-serious and non-compliant which falls within the ambit of sub-section (3) of section 23 of the Act.

2. ORDER

2.1. Keeping in view the above mentioned facts coupled with the available record, the Authority hereby decides as under:

- (a) The license of Gem Net Broadband Services (Pvt.) Ltd. is hereby suspended for a period of one month or till the submission of Annual Audited Accounts along with the payment of Annual License Fee for the financial years ended on 30th

June, 2007 to 2010 including Late Payment Additional Fee @ 2% per month on the outstanding amount for each month or part thereof for the years ended on 30th June, 2007 to 2010, whichever is earlier.

- (b). In case of non-compliance of Para 2.1 (a) above, license Dir(C)/L/CVAS-05/PTA/2006 dated 19th January, 2006 of the licensee shall stand terminated upon expiration of one month after the date of issuance of this order without any further notice.
- (c). All LDI, LL and Mobile licensees are directed to immediately suspend all telecommunication facilities extended to the licensee pursuant to the license till further orders of the Authority.

Dr. Khawar Siddique Khokhar
Member (Technical)

Dr. Mohammed Yaseen
(Chairman)

This enforcement order signed on 4th November, 2011 and comprises of 03 pages only.