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National Information and Communications Technology Act 2009

SERVICE-SPECIFIC PRICING PRINCIPLES (ACCESS TO UNIVERSAL ACCESS AND SERVICE FUND FUNDED TELECOMMUNICATIONS TOWERS AND RELATED FACILITIES) DETERMINATION 2019

THE NATIONAL INFORMATION AND COMMUNICATIONS TECHNOLOGY AUTHORITY makes this Determination under Section 135 of the *National Information and Communications Technology Act 2009*.

PART I - PRELIMINARY

1. Name of Determination

This Determination is the Service-Specific Pricing Principles (Access to Universal Access and Service Fund Funded Telecommunications Towers and related Facilities) Determination 2019.

2. Commencement

This Determination commences on the day it is notified in the *National Gazette* (Commencement date)

3. Interpretation

- (1) Subject to subsection (2), unless the context otherwise requires, terms used in this Determination have the same meaning as in the Act.
- (2) In this Determination, unless the context otherwise requires—
 - (a) “Act” means the *National Information and Communications Technology Act, 2009*;
 - (b) “tower” has the same meaning as given to “telecommunication transmission tower” in the Act;
 - (c) “UAS” means universal and access service.

Service-Specific Pricing Principles (Access to Universal Access and Service Fund Funded Telecommunications Towers and Related Facilities) Determination 2019—*continued*

4. Determination

The National Information and Communications Technology Authority determines, pursuant to Section 135 of the Act, that the service-specific pricing principles specified in Part II are to apply to the facilities access services that may be supplied by means of any facility constructed under a UAS project agreement, such services being deemed to be a declared service under paragraph 13(1)(b) of the Act and including all or any of the following services—

- (a) access to the site on which the tower has been erected;
- (b) access to on-site shelters and accommodation;
- (c) use of access roads to the site;
- (d) access to and use of on-site power; and
- (e) access to backhaul transmission to enable equipment installed on towers to inter-work with network equipment at other locations.

PART 11 - PRICING PRINCIPLES

5. Price related terms and conditions

- (1) These pricing principles shall be interpreted consistently with and subject to the general Pricing Principles in Section 134 of the Act.
- (2) Charges imposed on access seekers shall reflect the costs incurred by the access provider in providing the service, including a reasonable risk-adjusted return on the assets employed. Access charges should therefore reflect costs and cost causation.
- (3) The cost of capital employed in determining an access charge should be adjusted to reflect that the cost of that proportion of the funds provided from the Universal Access and Service Fund.
- (4) Operating and maintenance costs shall be shared on the basis of the proportion of costs caused by the access provider and the access seekers(s).
- (5) Operating and maintenance costs include costs incurred for payment of rent to customary owners, site security and protection, road access and maintenance and other on-going costs attributable to each specific site.
- (6) Access charges may be once-only where costs are incurred in order to establish the access or to facilitate the access involved, and these costs may be recovered by the access provider from the access seeker.
- (7) Access charges may be on-going, reflecting the on-going access and use of the facility and related services. These charges may be imposed on an annual, quarterly, monthly or other periodic basis as the parties may agree, but they shall be, for the purposes of this Determination, calculated on an annual basis.
- (8) Depreciation components in access charges shall be calculated on the basis of the expected cost of replacement of the tower and other shared facilities at the end of their economic lives without any assumption that the replacement facilities will be funded from the universal access and service fund at that time.

Service-Specific Pricing Principles (Access to Universal Access and Service Fund Funded Telecommunications Towers and Related Facilities) Determination 2019—*continued*

6. Additional price related terms and conditions for access to towers and use of sites

- (1) The once-only charge to the access seeker for access to a tower and use of a site should be based on the following formula—

$$OOAC = A + B$$

where:

- (a) *OOAC* is the Once Only Access Charge to be paid by an access seeker.
- (b) *A* is the cost incurred by the access provider to prepare the tower and site to enable sharing and use by the access seeker; and
- (c) *B* is the cost incurred by the access provider to relocate or alter its equipment on the tower or site to facilitate sharing by the access seeker.

- (2) The annual access charge to the access seeker for access to a tower and use related facilities should be based on the following formula— $AAC - (ACoC + D + OPEX) * (1/SF)$

Where:

- (a) *AAC* is the Annual Access Charge payable by each access seeker;
- (b) *ACoC* is the Annualised Cost of Capital, which in turn is calculated by multiplying the Weighted Average Cost of Capital (WACC) by the capital expense incurred by the access provider in establishing the tower and related facilities subject to sharing, net of all amounts paid from the UAS Fund.
- (c) *D* is the annual depreciation to provide for replacement of the tower and related facilities subject to sharing at the end of its economic life;
- (d) *OPEX* is the annual operating and maintenance cost actually incurred by the access provider which is reasonably attributable to the operation of the tower and site; and
- (e) *1/SF* is the tower and other facilities subject to sharing by the access seeker. Note that the sharing factor may vary depending on the facility involved and shall reflect the proportion of overall costs attributable to the access seeker's usage if the facilities and site.
- (f) Where the *SF* in clause 6(2)(e) cannot otherwise be determined, it may be taken to be the total of the number of access seekers plus the access provider.

7. Additional price related terms and conditions for access to onsite shelters and accommodation

- (1) A once-only charge and an annual access charge may be applied if the access seeker requires shelter or accommodation for equipment in existing facilities operated by the access provider on the site.
- (2) The SF for each shelter or building will be based on the proportion of the total utilised space in the shelter or building used by the access seeker, allowing for appropriate spacing between equipment for maintenance access and safety.

Service-Specific Pricing Principles (Access to Universal Access and Service Fund Funded Telecommunications Towers and Related Facilities) Determination 2019—continued

8. Additional price related terms and conditions for access to power

If the access seeker is sharing power provided by or to the access provider then the following principles shall apply—

- (a) The charge to the access seeker should be based on metered usage at the rate per kilowatt hour payable or incurred by the access provider.
- (b) The cost of establishing separate metering shall be borne by the access seeker, and
- (c) If the access seeker decides that the cost of establishing separate metering is out of proportion to the costs of power consumption at the site the access seeker may agree with the access provider on an alternative means of charging for its power usage based on the power usage rating of the manufacturer of the equipment it has on site

9. Additional price related terms and conditions for access to backhaul transmission

- (1) The costs associated with establishing points of interconnect on the site in question and at the remote network node shall be borne by the access seeker.
- (2) The costs of using the backhaul transmission facility shall be based on a transit fee per unit of traffic (whether per Megabit or voice minute or both). If the parties have included such charges in a general interconnection agreement between them, in which case those charges shall apply.
- (3) If there is no interconnection agreement between the parties covering backhaul then the parties may agree on a backhaul fee that is based on the total service long term incremental cost (TSLRIC) standard.

Dated 17th day of December, 2019.

J. CHOLAI,
Memeber.

C. PUNAHA,
Member,