

VIRGIN ISLANDS

TELECOMMUNICATIONS CODE (PART 6) (INTERCONNECTION AND ACCESS TO FACILITIES AND UTILITY INSTALLATIONS) REQUIREMENTS, 2011

ARRANGEMENT OF SECTIONS

Section

PART I PRELIMINARY

1. Citation and Scope of application
2. Interpretation
3. General principles
4. Functions of the Commission

PART II

OBLIGATIONS OF PUBLIC SUPPLIERS

5. Duty to interconnect
6. Non-discrimination obligation
7. Confidentiality obligations
8. Transparency obligations

PART III

INTERCONNECTION AGREEMENTS

9. Requirement to publish and interconnection agreement
10. Negotiating interconnection agreements
11. Contents of interconnection agreements
12. Disputes regarding interconnection and interconnection agreements
13. Submission to the Commission
14. Modification, suspension or termination of interconnection agreements

PART IV

INTERCONNECTION CHARGING

15. Interconnection charging

16. Interconnection rate methodology

PART V

ACCESS TO FACILITIES AND UTILITY INSTALLATIONS

17. Provision of access

18. Negotiating access to facilities and utility installations

PART VI

IMPLEMENTATION

19. Implementation

VIRGIN ISLANDS

STATUTORY INSTRUMENT 2011 No. 56

**TELECOMMUNICATIONS ACT, 2006
(No. 10 of 2006)**

**Telecommunications Code (Part 6) (Interconnection And Access To Facilities)
Requirements, 2011**

[Gazetted 22nd September, 2011]

The Telecommunications Regulatory Commission, in exercise of the power conferred by sections 6 (n), 26 (1) and (2), 29 and 91(3) of the Telecommunications Act, 2006 (No. 10 of 2006), issues these Requirements.

PART I

PRELIMINARY

Citation and
scope of
application

- 1.** (1) These Requirements apply to the interconnection of public telecommunications networks and public telecommunications services as well as access to facilities and utility installations.
- (2) These Requirements apply to all public suppliers. Requirements related to access to facilities and utility installations also apply to public utilities.
- (3) These Requirements may be cited as the Telecommunications Code (Part 4) (Interconnection and Access to Facilities Requirements) and shall come into force on the date of publication in the Gazette.

Interpretation.

- 2.** (1) In these Requirements unless the context otherwise requires –

No. 10 of
2006.

“Act” means the Telecommunications Act, 2006

“Code” means the Telecommunications Code;

“interconnection agreement” means an agreement between two licensees setting forth their respective rights and obligations with respect to providing interconnection between their telecommunications networks and telecommunications services;

“public supplier” means an operator or a service provider;

“facility” means premises or a physical component of a telecommunications network, other than terminal equipment, including wires, lines, terrestrial and submarine cables, wave guides, optics or other equipment or object connected therewith, used for the purpose of telecommunications and includes any post, pole, tower, standard, bracket, stay, strut, insulator, pipe, conduit, or similar thing used for carrying, suspending, supporting or protecting the structure.

General principles.

3. (1) Public suppliers are required to co-operate with each other in accordance with the Act, the Code, including these Requirements, and respective licences, in order to enable them to provide integrated public telecommunications services throughout the Virgin Islands and to allow each user of a public telecommunications network or a public telecommunications service to communicate with any other user of another public telecommunications network or public telecommunications service.

(2) Interconnection shall be established and provided in accordance with interconnection agreements negotiated and agreed between the parties, and submitted to the Commission, pursuant to the Act, the Code, including these Requirements, and respective licences. This requirement shall not be interpreted in a manner that would restrict or limit a right of a public supplier to interconnect.

Functions of the Commission.

4. (1) The Commission shall, consistent with the Act, the Code, including these Requirements, and respective licences encourage and, where appropriate, ensure, the adequacy of interconnection between public telecommunications networks and public telecommunications services in such a way as to –

- (a) promote efficiency;
- (b) promote sustainable competition;
- (c) give maximum benefit to users

.

(2) The Commission may, to the extent necessary to ensure end-to-end connectivity:

- (a) impose the obligations on public suppliers in line with Section 26 of the Act and these Requirements;
- (b) establish technical or operational conditions to be met by public suppliers;
- (c) resolve disputes with respect to the establishment of interconnection agreements and disputes regarding the interpretation and implementation of such agreements; and
- (d) act on its own initiative or at the request of either of the parties involved in order to carry out the objectives of the Act and the Code, including these Requirements, and ensure compliance with the Act, the Code, including these Requirements, and respective licences.

(e) in the instance where a public supplier is designated dominant in the respective interconnection market, the Commission may, in accordance to Section 26 (4) of the Act, set out additional terms and conditions of interconnection, including the interconnection rates to be applied between public suppliers.

PART II

OBLIGATIONS OF PUBLIC SUPPLIERS

Duty to
interconnect.

5. (1) Every public supplier has a duty to interconnect with other public suppliers.

(2) For purposes of subsection (1), interconnection may either be direct or indirect, through the public telecommunications networks or public telecommunications services of other public suppliers as per Section 26 of the Act.

(3) The duty to interconnect specified in subsection (1) obligates public suppliers to refrain from refusing, obstructing or in any way impeding the interconnection of another public supplier.

(4) The duty to interconnect specified in subsection (1) includes the requirement that every public supplier provide for the transmission and routing of the services of other public suppliers at any and all technically feasible points and that the facilities of the public supplier requesting interconnection may be collocated with the facilities of the public supplier required to offer interconnection, except to the extent that the Commission may otherwise determine. The services necessary to make collocation efficient and effective, such as electricity and ventilation, shall also be provided.

(5) Any agreement governing direct interconnection between public suppliers shall be embodied in a written interconnection agreement. This requirement shall not be interpreted in a manner that would restrict or limit a right of a public supplier to interconnect.

(6) Each public supplier that interconnects with another public supplier shall take reasonable measures to ensure that the interconnection does not cause physical or technical harm to the other public supplier's telecommunications network.

(7) Each public supplier must provide to another public supplier with which it interconnects information within its possession that is necessary to allow such other public suppliers to provide accurate and timely billing services to itself, its affiliates or other public suppliers.

(8) Each public supplier must make publicly available through its website any protocols, key technologies or physical and logical interfaces of its services or network necessary to allow the development and interoperability of telecommunications services and, not less than six (6) months prior to deployment, any changes in logical or physical interfaces that could materially affect existing

interconnection arrangements, unless otherwise exempted by the Commission;

(9) Each public supplier must ensure interoperability of end-to-end services to users, including means for intelligent network services or roaming on mobile networks.

(10) Each public supplier must, as may be determined by the Commission, provide access to operational support systems or similar software systems that are required to ensure interoperability of and fair competition in the provision of telecommunications services.

(11) Parties to interconnection agreements shall have a duty to co-operate in good faith and in a commercially reasonable manner in implementing the terms thereof.

(12) A public supplier,

(a) providing public telephone service and/or operating a public telephone network, shall ensure that calling line identification information (number) is transmitted to an interconnecting network together with traffic of such a service. Calling line identification information (number) shall be transmitted in the format, allowing international calling to such a number as per calling conventions applied in the Virgin Islands;

(b) who provides transit to traffic of public telephone service, shall ensure that calling line identification information is transmitted to an interconnecting public supplier unaltered;

(c) Requirements of this subsection do not apply in circumstances, where a public supplier proves that it is technically infeasible to comply with such requirements.

Non-discrimination obligation.

6. (1) Every public supplier must offer to provide and provide interconnection, and the elements thereof, to other public suppliers on the basis of terms and conditions that are non-discriminatory, including with respect to rates and quality of service.

(2) At a minimum, the obligation set forth in subsection (1) requires that interconnection and the elements thereof be provided in a manner that is at least equal in both rates and quality to that provided by the public supplier to its own business units or to any subsidiary or affiliate, or to any other party to which interconnection is offered or provided.

(3) Every public supplier must offer to provide and provide interconnection on a timely basis not to exceed 90 days subject to section 8, after requested by another public supplier, and on the basis of terms and conditions that are transparent and reasonable, having regard to economic feasibility.

(4) Interconnection must be provided without regard to the types of users to be served or the types of services to be provided by the public supplier requesting interconnection.

(5) Once a public supplier concludes an interconnection agreement, it must

(a) offer the terms and conditions of such an agreement to any other public

supplier requesting interconnection; and

(b) offer the terms and conditions of such an agreement, upon request, to any public supplier with which it has an existing interconnection agreement, except to the extent that it can demonstrate to the Commission that subsections (1) and (2) would not be violated by a refusal to offer such terms and conditions to such a public supplier.

(6) Every public supplier shall enable other public suppliers to have non-discriminatory access to telephone numbers, operator services, directory assistance and directory listing services without unreasonable delay, and to such other information and services as the Commission may require.

Confidentiality obligations.

7. (1) Except as permitted under the fair and reasonable terms of an applicable interconnection agreement, every public supplier must protect from disclosure any confidential, proprietary or competitive information (including, but not limited to, customer orders, market forecasts, plans for development of new services, network plans, current or proposed business plans, and new customers) provided by another public supplier received in the course of negotiating or implementing an interconnection agreement.

(2) All information disclosed pursuant to subsection (1) must be kept in confidence by the receiving party and may, subject to such commercial conditions and exceptions as are set out in a non-disclosure or interconnection agreement between the parties, be used by such party, and shared with its (and any of its affiliates') employees, agents and contractors, only for the provision of the specific services related to interconnection that have been requested.

(3) Every public supplier receiving confidential or proprietary information pursuant to subsection (1) shall take appropriate measures to ensure that the information is not disclosed to affiliates or third parties, or used for the development or marketing of other telecommunications services or equipment by such public supplier, or by its affiliates or third parties, other than as permitted by subsection (2).

Transparency Obligations.

8. (1) Each dominant public supplier shall publish on its website the information in respect of the provision of interconnection including technical specifications, network characteristics and terms and conditions for supply and use, including prices.

(2) Each dominant public supplier shall, within the timeframe set out in section 13 (1), publish its interconnection agreements on its own website and submit to the Commission to be published on its website.

PART III

INTERCONNECTION AGREEMENTS

Requirements applicable to an interconnection agreement.

9. (1) Every public supplier shall provide a standard interconnection agreement within thirty (30) days of its receipt of a new request for interconnection from another public supplier.

(2) An interconnection agreement must be consistent with the Act, the Code, including these Requirements, the offeror's licence and, except as the Commission may instruct or authorize the public supplier, shall contain the following information:

(a) The technically feasible points at which interconnection is permitted and the means by which interconnection will be achieved. Every public supplier shall have to permit interconnection at the host switch as part of its basic interconnection service offering.

(b) The elements of the interconnection service and its constituent elements, including signaling, transport, the transfer of calling line identification information and switching between the point of interconnection and users.

(c) Rates or pricing formulae for each feature, function or facility that the public supplier is required to offer pursuant to the Act, the Code, including these Requirements, and its licence.

(d) Other commercial terms and conditions applicable to the offering of the elements of the interconnection service.

(3) In addition to the information required by subsection (2), the interconnection agreement of a public supplier must –

(a) list and describe the network elements and services that will be provided to interconnecting parties, as further specified in section 11;

(b) include information concerning the locations of physical and logical access sites in specific parts of the network;

(c) describe any operational and technical requirements with which an interconnecting party must comply in order to avoid harm to the offeror's network;

(d) provide access to facilities for the purposes of maintenance and rectifying faults;

(e) as determined by the Commission, set out the ordering and provisioning procedures and any usage restrictions with respect to any elements of the interconnection service;

(f) set out the conditions for access to operational support systems, information systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests and billing, unless the Commission, on application of a public supplier, shall determine that such access is not required;

(g) describe how information will be provided (such as call type, duration and points of origination and termination) to allow the interconnecting party to bill for telecommunications services; and

(h) provide (1) the lead times for responding to requests for supply of services and facilities; (2) service level agreements, including with respect to fault resolution, procedures to return to a normal level of service and quality of service parameters; and (3) terms with respect to each of the foregoing.

Negotiating
interconnection
agreements

10. (1) Upon receipt of a new request for interconnection, a public supplier must provide its standard interconnection agreement as per section 9 (1) in line with existing interconnection agreements.

(2) The standard interconnection agreement shall be provided without charge to any public supplier requesting interconnection.

(3) The party requesting interconnection shall, simultaneously with such request, notify the Commission of such request and shall provide to the Commission any additional information requested by the Commission.

(4) The request from the party requesting interconnection shall include (a) reference to the requesting licensee's licence;

(b) a technical description of the requested services;

(c) the intended point of interconnection;

(d) the date on which interconnection is intended to commence; and

(e) the projected quantity or volume of services required, based on a forecast of three (3) years or of some other period if the public supplier is unable to provide such three (3)-year forecast.

(5) Promptly upon the receipt of the request to interconnect, the respective parties shall begin exchanging information and negotiating in good faith with the objective of concluding an interconnection agreement.

(6) Good faith negotiations require, at a minimum, adherence by the parties to the following timetables:

(a) Upon receipt of a request for interconnection, a public supplier shall promptly consider and analyze each such request and shall acknowledge receipt within ten (10) days.

(b) If the information provided by the party requesting interconnection is deemed inadequate or insufficient by the other party, then the respective public supplier shall seek additional information from the requesting party as soon as commercially reasonable.

(c) Unless there are exceptional circumstances, the public supplier shall notify the requesting party of such additional information as it requires within twenty (20) days of receipt of the initial request for interconnection.

(d) The public supplier shall provide a complete response to the request for interconnection within thirty (30) days of the receipt of the later of the date of the initial request or such additional information as the public supplier may have requested.

(e) In exceptional circumstances, the period specified in clause (d) may be extended for another thirty (30) days, provided that the public supplier shall so notify the Commission.

(f) If the public supplier is unable to respond to the request for interconnection by the end of such sixty (60)-day period, it shall provide, on the date on which such period expires, a written statement as to the reasons therefore to the Commission and to the party requesting interconnection.

Contents of
interconnection
agreements

11. (1) The Interconnection agreement shall include the following information:

a. the date of entry into force, duration and arrangements for the modification, termination and renewal of the agreement;

b. arrangements for the establishment of interconnection and the planning of subsequent deployment, technical standards for interconnection, level of quality of service guaranteed by each network and coordination measures for monitoring quality of service and fault identification and clearance;

c. a description of the services provided by each party;

d. location of the points of interconnection;

e. measures relating to tests for interoperability;

f. intellectual property rights;

g. arrangements for the provision of equal access and number portability, where applicable;

h. measures to provide facility sharing, including collocation;

i. measures to ensure the maintenance of essential requirements;

j. access to ancillary, supplementary and advanced services;

k. access to basic services including emergency, free-phone and toll-free numbers, directory assistance and text messaging SMS termination services;

l. access to special access services including premium rate services;

m. arrangements for measuring traffic and setting fees for services, billing and settlement procedures;

o. notification procedures and the contact details of the authorized representatives of each party for each field of competence;

p. operational and maintenance procedures;

q. rules for compensation in the case of failure by one of the parties;

r. procedure in the event of alterations being proposed to the network or service offerings of one of the parties;

s. notification procedures and the contact details of the authorized representatives

- of each party for each field of competence;
- t. operational and maintenance procedures;
- u. rules for compensation in the case of failure by one of the parties;
- v. dispute settlement procedures;
- w. procedure in the event of alterations being proposed to the network or service offerings of one of the parties; and
- x. confidentiality of non-public parts of the agreements.

Disputes regarding interconnection and interconnection agreements.

12. (1) Where one or both of the two parties to the negotiation conclude that a dispute has arisen between themselves with respect to any aspect of interconnection, then either party may submit such a dispute to the Commission for resolution in accordance with the procedures as the Commission may adopt specifically for, and given the nature of, the particular dispute.

(2) A dispute, for purposes of subsection (1), may include, but is not limited to –

(a) a party’s failure to respond to a request for interconnection or to negotiate in good faith, where a failure to negotiate in good faith includes, but is not limited to, any party taking a position with respect to a term and condition of interconnection that is not consistent with the Act, 2006, the Code, including these Requirements, or its licence;

(b) any express or implied refusal to provide interconnection (including as specified in section 5(3) and section 6);

(c) a party’s inclusion in a standard interconnection agreement of any terms and conditions that are inconsistent with the Act, 2006, the Code, including these Requirements, or its licence;

(d) a disagreement with respect to the costs of interconnection;

(e) a failure by the parties to conclude promptly an interconnection agreement; and

(f) a disagreement with respect to the price or any other technical, commercial or other term and condition for any element of interconnection that the parties have not been able to resolve within a commercially reasonable time.

(3) In submitting disputes to the Commission, the parties shall adhere to the following timetables:

(a) The party intending to submit the dispute shall notify the other party of its intention to do so fifteen (15) days prior to the date on which it makes its formal submission to the Commission.

(b) At the expiry of the period specified in subsection (a), the submitting party shall lodge a petition with the Commission to resolve such dispute, with a copy of the petition delivered to the other party to the dispute.

(c) The petition to which subsection (b) refers shall include a statement of facts, a summary of the issues in dispute, each party's position as to such issues in dispute, evidence that the parties have attempted to commercially resolve the dispute between them (including summaries of correspondence, minutes of meetings and other information) and a summary of issues that were previously in dispute but have been resolved, including the resolutions thereto.

(d) Within fifteen (15) days of receiving one party's written petition and all accompanying evidence in support thereof (which period may be extended by the Commission for good cause shown upon application by the other party), the other party may lodge with the Commission a counterpetition containing arguments in its defense, including its views, if any, on why the Commission should not intervene to resolve the dispute, along with evidence in support thereof.

(e) The Commission will determine whether and to what extent it is appropriate to resolve the dispute and shall notify the parties whether it will or will not resolve the dispute.

(f) To facilitate investigation and resolution of the dispute by the Commission, either party may be asked by the Commission to provide additional information or explanations beyond the initial petition and counterpetition and any report or information required from one party by the Commission shall be provided to the other party.

(g) Information in a petition, counterpetition or otherwise submitted to the Commission shall be marked as confidential if the submitting party desires that such information not be disclosed to the other party. The Commission reserves the right to establish which information shall remain confidential in the light of the legal provisions set out in the Act.

(h) By no later than thirty (30) days after the receipt of the petition, the Commission shall endeavour to have completed its deliberation and render a Final Order, with the Commission having the discretion to extend such period in light of the complexity of the matter or where additional information is required.

(i) Notwithstanding subsection (h), where appropriate, the Commission may issue a Preliminary Order setting out its preliminary determination and its decision on how matters in dispute shall be resolved.

(j) Either party to the dispute may, within fifteen (15) days of the issuance of the Preliminary Order, request that the Commission reconsider one or more elements of such Preliminary Order, setting forth its reasons as to why the Commission should modify its Preliminary Order.

(k) Within ten (10) days of a request for reconsideration submitted pursuant to subsection (j), the other party to the dispute may respond and provide reasons as to why modification of the Preliminary Order is not required.

(l) The Commission may only modify the Preliminary Order in response to a request for reconsideration submitted pursuant to subsection (j) if there are compelling reasons to do so.

(m) The Commission shall endeavour to issue a Final Order by no later than fifty (50) days after its Preliminary Order.

(n) In issuing a Preliminary Order and a Final Order, the Commission shall consider the information and arguments submitted by the parties, as well as any other matter that the Commission deems relevant.

(o) Where necessary, the Commission may require a party to provide or continue to provide the relevant service(s) under such terms and conditions as the Commission may establish, pending the issuance of a Final Order.

(p) The Commission shall publish a notice on the Commission's website that it has issued a Preliminary Order or a Final Order and that, where the dispute involves a public supplier, such documents are, subject to the Act (confidentiality), available for public inspection, free of charge, at the offices of the Commission.

(4) Any decision rendered by the Commission pursuant to this section 11 shall be binding on the parties.

Submission to
the
Commission.

13. (1) Within twenty-eight (28) days after the parties to a negotiation regarding interconnection have concluded an interconnection agreement, the public supplier that responded to the initial request for interconnection shall submit a copy of such agreement to the Commission.

(2) Where an interconnection agreement submitted pursuant to subsection (1) includes one party that is dominant, the Commission shall publish the interconnection agreement on the Commission website.

(3) Notwithstanding subsection (2), the Commission will not disclose information respecting the interconnection agreement for which non-disclosure is proscribed by the Act.

(4) The Commission shall issue a Preliminary Order within twenty (20) days of submission to it of a notice with respect to one party's unilateral suspension or termination of an interconnection agreement, pursuant to section 14, authorising or declining to authorise such suspension or termination, which period may be extended for good cause.

Modification,
suspension or
termination of
interconnection
agreements.

14. (1) The parties to an interconnection agreement may mutually agree to modify, suspend or terminate such agreement.

(2) Where modifications to an interconnection agreement are material, or where the interconnection agreement is to be suspended or terminated by mutual agreement, the parties shall notify the Commission 20 working days before modification, suspension or termination unless the Commission grants permission otherwise, and shall inform the Commission of the reasons for taking such action.

(3) If the interconnection agreement includes provisions pursuant to which its

unilateral suspension or termination by one party would be permitted –

(a) the party seeking to suspend or terminate the agreement in accordance with such provisions shall so notify both the Commission and the other party no less than twenty (20) days prior to the effective date of such suspension or termination; and

(b) such suspension or termination will become effective in accordance with such notice unless the other party applies to the Commission for relief prior thereto and the Commission issues a Preliminary Order preventing such suspension or termination.

PART IV

INTERCONNECTION CHARGING

Interconnection
charging.

15. (1) Every public supplier shall provide interconnection at rates that are arrived at in a transparent manner subject to the provisions of any interconnection agreement or the Code, including these Requirements, regarding the confidentiality of costs or other commercial information.

(2) Rates for interconnection established by public suppliers that are not dominant shall not be subject to regulation, except as authorised or required by the Act, the Code, including these Requirements, licenses of such public suppliers or as otherwise determined by the Commission. This shall in no way be interpreted as preventing the Commission being able to resolve disputes with regard to interconnection rates.

(3) The Commission may determine that a dominant public supplier shall provide interconnection:

(a) at rates that are cost-oriented as per the forward looking long-run incremental cost standard;

(b) at rates based on appropriate international benchmarks as determined by the Commission; or

(c) as per arrangements where no payments are made between public suppliers.

(4) Upon request of the Commission, a public supplier shall supply its costs with respect to the network elements specified in and pursuant to section 17 for purposes of verifying that its rates for interconnection, and other contributions or charges levied or allowed by the Commission, comply with this section 15.

(5) The Commission reserves the ultimate right to set the level of the termination rate for an operator designated as dominant and will do so through public consultation .

(6) Rates for interconnection shall be applied without prejudice to any requirements applicable to dominant public suppliers, in particular the

requirement of non-discrimination and prohibition to engage into anti-competitive behaviour, including margin squeeze.

(7) The costs of inter-operability shall be borne equally by both public suppliers. Public suppliers shall bear all the costs of installing interconnection facilities and of implementing numbers on their own network. Public suppliers shall bear half the cost of the interconnection link.

Interconnection
rate
methodology.

16. (1) Where the Commission requires public supplier's rates to be cost-oriented, it shall determine the methodology to be used for determining whether a public supplier's rates are cost-oriented.

(2) The Commission shall apply the following principles in establishing the methodology to which subsection (1) refers –

(a) costs shall be borne by the public supplier whose activity caused such costs to be incurred.;

(b) The relevant incremental costs (i.e. avoidable costs) of the wholesale call termination service are the difference between the total long-run costs of an operator providing its full range of services and the total long-run costs of that operator not providing a wholesale call termination service to third parties.

(c) The relevant incremental costs may be recovered through a termination rate system or through a capacity based charging system as determined by the Commission.

PART V

ACCESS TO FACILITIES AND UTILITY INSTALLATIONS

Provision of
access.

17. (1) A public supplier and a public utility shall provide other public suppliers and public utilities with access to all facilities or utility installations that it owns or controls on a timely basis, with such access not to be unreasonably withheld, as may be further determined by the Commission. If access is withheld, the public suppliers and public utilities concerned should refer matter immediately to the Commission.

(2) A public supplier or a public utility may deny access to facilities or utility installations only for reasons of insufficiency of capacity, safety, security, reliability or difficulty of a technical or engineering nature in line with Section 27 (2) of the Act. Any denial of access should be fully explained both to the public supplier or public utility seeking access and the Commission.

Negotiating

18. (1) Pursuant to section 17, every public supplier and public utility must

access to facilities.

offer to provide and provide access to facilities and utility installations on a non-discriminatory and equitable basis, including with respect to rates, location and other commercial matters.

(2) The Commission may require a public supplier or public utility to provide collocation or other forms of sharing of facilities or utility installations.

(3) Prices for access to and use of facilities and utility installations may be priced on an individual basis, but must be non-discriminatory, just, reasonable and based on the efficient costs of the owner of the facilities or utility installations.

(4) Upon receipt of a request for access to facilities or utility installations, a public supplier or public utility must promptly provide the terms and conditions for such access.

(5) Promptly upon the receipt of the request for access, respective parties shall begin exchanging information and negotiating in good faith with the objective of concluding an agreement to provide access to the requested facilities or utility installations.

(6) Where public suppliers (or a public supplier and a public utility) are not able to reach an agreement regarding compensation for the sharing of facilities or utility installations, or one or both of the two parties to a negotiation for access to facilities or utility installations conclude that a dispute has arisen between themselves, then either party may submit such dispute to the Commission for resolution in accordance with such procedures as the Commission may adopt. The Commission will establish rates based on costs, where appropriate.

(7) In resolving disputes pursuant to section 18(6) and in considering whether to impose collocation or sharing requirements in accordance with subsection (1), the Commission shall endeavour to take into account –

- (a) the reasonably anticipated requirements of the public supplier;
- (b) a maximum timeframe of two years allowed for planning;
- (c) any issues relating to safety, security, reliability or difficulty of a technical or engineering nature;
- (d) the technical and economic viability of requiring that the requesting party use or install other facilities or utility installations;
- (e) the initial investment of the owner of the facilities or utility installations;
- (f) the costs of duplicating the facilities or utility installations;
- (g) other public interest considerations, such as the environmental impact of deploying certain types of facilities or utility installations by multiple public suppliers or public utilities; and
- (h) the need to promote and safeguard competition.

(8) The Commission may adopt such procedures, including those adapted from the procedures set forth in section 11, as it deems appropriate for mediating and

resolving disputes regarding rates, terms and conditions of access to facilities and utility installations.

(9) Pending the resolution of any dispute, the Commission may order access to facilities or utility installations on an interim basis.

(10) Except as the Commission may determine in accordance with subsection (3), a dominant public supplier must –

(a) allow another public supplier to collocate its facilities in buildings housing any switches at which the carrier is required to permit interconnection in accordance with these Requirements, at any satellite earth station, at any radio tower, at any telecommunications equipment rooms in commercial or residential buildings or at such other locations as the Commission may determine as related to the market in which the respective supplier is found dominant;

(b) provide equipment space, power, site maintenance and security (subject to taking reasonable security precautions in connection with affording such other a public supplier access to its own facilities) at each such site; and

(c) afford such other public supplier access to its collocated facilities on a basis no less favourable than the public supplier affords to itself.

(11) A dominant public supplier may not restrict the type of facilities collocated in accordance with subsection (5)(a) so long as it is of a type of telecommunications equipment customarily located in such locations.

(12) In cases where a dominant public supplier cannot offer physical collocation for any reason set out in clauses (a) and (b) of subsection (10), such public supplier must take reasonable measures to afford the party requesting collocation alternative solutions, including, but not limited to, virtual collocation, conditioning additional equipment space, optimising the use of existing space or finding adjacent space.

(13) A public supplier need not offer to construct additional buildings to accommodate requests for collocation or provide collocation for the staff or personnel of another public supplier, except as such other public supplier may occasionally require, from time to time, to service or repair its collocated equipment.

(14) Facilities and utility installations shall be properly maintained by respective public suppliers or public utilities. Redundant equipment or installations shall be removed to maximize space available at facilities and utility installations.

PART VI

IMPLEMENTATION

Implementation

19. (1) Public supplier should ensure that existing interconnection agreements fulfill these Interconnection Requirements and amend where necessary before submitting to the Commission for approval and publication.

(2) The Commission reserves the right to amend interconnection agreements where existing agreements are non-compliant.

(3) A public supplier who is providing services at the time of commencement of these Requirements shall take the necessary steps to comply with the obligations set out these Requirements within one month of the commencement of these Requirements.

(4) A public supplier who commences activities including interconnection and access after the commencement of these Requirements shall comply with the obligations set out in these Requirements at the commencement of the activities.

(5) A public supplier who fails to comply with the provisions of these requirements commits an offence and is liable to the enforcement measures provided in sections 26, 27, 75, 76 and 77 of the Act.

(6) The provisions of the Requirements do not replace, but rather supplement the requirements of a public supplier's licence.

Issued by the Telecommunications Regulatory Commission on the 8th day of September, 2011.

(Sgd.) Collin Scatliffe
Chairman of the Board