



INTERCONNECTION AND ACCESS RULES

Communications Commission of Kiribati

September 2016

PART 1 – PRELIMINARY

1. These rules are made pursuant to Section 42 of the Communications Act 2012 and may be cited as the Interconnection and Access Rules.
2. These rules will be subject to periodic reviews, the first being no later than 24 months of their introduction, to ensure that they remain relevant in light of the emergence of new technologies and services, ongoing developments in the Kiribati communications sector and international best practices.

Definitions and interpretation

3. The words and expressions used in these rules (including without limitation ‘access’, ‘communications facility’, ‘communications network’, ‘interconnection’, ‘message’, ‘radiocommunications’ and ‘user’) have the same meaning as given in the Communications Act 2012. In addition:

‘Act’ means the Communications Act 2012

‘Day’ means a calendar day

‘Domestic Termination Service’ means a service whereby each of the domestic access networks of two licensees are interconnected in order to allow the customers of one licensee to make calls; and send messages and data to the customers of the other licensee

‘Providing Licensee’ means a licensee who provides (or is requested to provide) an interconnection or access service

‘Requesting Licensee’ means a licensee who wishes to acquire an interconnection or access service from a providing licensee

‘Rules’ means these interconnection and access rules.

PART 2 – OBJECTIVES OF THESE RULES

4. The objective of these rules is to provide a clear framework under which the Commission shall apply and enforce the provisions of the Act insofar as they apply to the Commission’s role in the regulation of access to and the sharing of communications facilities, the interconnection of the communications networks and reference offers.

PART 3 – MANDATORY SERVICES

5. Pursuant to Section 42 of the Act, the Commission hereby designates the Domestic Termination Service as a Mandatory Service that licensees must provide between interconnected communications networks and which must be included in interconnection and access agreements

prepared in accordance with Section 40 of the Act.

6. For avoidance of doubt, the provision of a service to terminate calls, messages and data that has originated on an overseas network is not considered to fall within the definition of a Domestic Termination Service and is not an interconnection service as that term is defined in the Act.
7. The Commission may designate additional mandatory services from time to time as a result of a periodic review of these rules as described in rule 2.

PART 4 – INTERCONNECTION AND ACCESS PRICING PRINCIPLES

8. Pursuant to Section 42 (1) (a) of the Act, where the Commission determines an interconnection and access agreement, a reference offer or whether to approve a reference offer in accordance with the Act, it shall:
 - (a) determine and/or approve interconnection and access prices by benchmarking against cost-oriented prices for similar services in other countries comparable to Kiribati
 - (b) take into account any prices for interconnection and access services that have already been agreed by two or more parties pursuant to a commercial negotiation.
9. The pricing principles described above are subject to the limitation set out in Section 42 (6) of the Act that the price for the termination of calls or messages on a type of communications network must not be greater than 50% of the lowest long-term price charged by the providing licensee to its retail customers for any service which includes termination on that type of network.

PART 5 - REFERENCE OFFERS

Circumstances in which the Commission shall require a licensee to prepare and provide a reference offer to the Commission

10. The Commission shall require a licensee to prepare and provide to the Commission a reference offer for any service where:
 - (a) the licensee is required to do so as per the terms and conditions of its individual licence
 - (b) the Commission has good reason to believe that the services of prospective requesting licensees will necessarily depend on the services that would be the subject of such a reference offer; and
 - (c) the publication of a reference offer will help ensure the timely provision of interconnection and access services on terms consistent with the Act and these rules.
11. In circumstances where the Commission has required a licensee to prepare and provide a reference offer (or variation) to the Commission, the following procedure shall apply:
 - (a) A draft reference offer (or variation) ("**initial draft**") shall be provided by the licensee to the Commission within 90 days, or other period of time as described in an individual licence or period of time mutually agreed by the Commission and the licensee.

- (b) The Commission shall publish the initial draft on its website and invite other interested parties to make submissions in relation to it.
 - (c) The Commission may request the licensee to give the Commission further information about the initial draft. The Commission may refuse to consider or suspend its consideration of the initial draft until the licensee gives the Commission any information that the Commission has requested. The Commission may withdraw its request for further information, in whole or in part.
 - (d) The Commission will consider the initial draft and submissions that are received and use its reasonable efforts to make a draft determination within 30 days of the date of receiving the initial draft, such a draft determination to include:
 - i. any changes to the initial draft that the Commission considers to be appropriate
 - ii. the reasons for such proposed changes and
 - iii. any further information that may be required by the Commission.
 - (e) Subject to any confidentiality considerations, the draft determination and any submissions that have been made in relation to the initial draft will be:
 - i. published on the Commission's website and
 - ii. provided to the licensee and to each party who has made a submission on the initial draft.
 - (f) The licensee and any other interested party shall have 14 days within which to make any submissions in relation to the draft determination.
 - (g) The Commission will use its reasonable efforts to make a final determination with respect to the acceptance of the reference offer within 60 days of the date of the provision of the initial draft and any further information that has been requested by the Commission.
12. Nothing in these rules limits the Commission's power to make a determination or direction pursuant to Section 43 (5) of the Act.

Matters to be included in a reference offer for its effective implementation

13. Each reference offer shall:
- (a) comply with the provisions of the Act and these rules
 - (b) allow a requesting licensee to purchase only those interconnection and/or access services that it wants to obtain and
 - (c) be sufficiently detailed to enable a requesting licensee that is willing to accept its prices, terms and conditions to obtain interconnection and/or access services without having to engage in substantive negotiations.

14. A reference offer shall include the following information as a minimum:

- (a) a list and description of the interconnection and access services offered, including their prices
- (b) information regarding the availability of interconnection and/or access services, including (unless not applicable) the address of each exchange, the geographical boundaries of the area served by each exchange and points of presence for Internet access and IP based traffic
- (c) a description of the quality of service that the Providing Licensee will provide - including the means by which quality of service will be measured, the timeframe within which any shortcomings will be corrected and the amount and manner in which the Requesting Licensee will be compensated for any failure by the Providing Licensee to meet the quality of service standards
- (d) a description of any operational and technical requirements that the Requesting Licensee must comply with to avoid harm to the Providing Licensee's network
- (e) a description of any restriction or condition that the Providing Licensee intends to impose on the terms of the offer contained in the offer, if any, including any situations in which capacity, technical or operational constraints will limit the ability of the Providing Licensee to meet requests for interconnection and/or access services
- (f) a description of the means by which a Requesting Licensee can order currently available interconnection and/or access services - including the contact person, the expected number of days from order to provisioning, the means by which provisioning will be monitored (including quality of service testing procedures), the procedures for reporting operational and technical problems, the procedures and timeframes for correcting any such problems, and the amount and means by which the Providing Licensee will compensate the Requesting Licensee for any unreasonable provisioning delays
- (g) a provision stating that, where the parties are unable to resolve disputes through negotiation within 30 days, either party may refer disputes arising from the implementation of the reference offer to the Commission for resolution
- (h) a provision may also be added in addition to 14 (g) that sets out the terms of a time bound, cost effective, readily enforceable alternative mechanism to the Commission for resolving disputes arising from the implementation of the reference offer where mutually agreed by the two parties.

15. The price-related terms of a reference offer must:

- (a) not be fixed for a period longer than two years; or
- (b) must be permitted to be reviewed at intervals of no more than two years to ensure they reflect current costs and efficiencies.

16. For the avoidance of doubt, the non-price terms of a reference offer may be fixed for a period longer than two years.

PART 6 - EFFECTIVE DATE

17. These rules are effective on the day on which they are made.

Made at Betio this ___ day of September, 2016.

Mr. Tangitang Kaureata
Chairman, Communications Commission Kiribati