



OPTICAL FIBER INTERCONNECTION REGULATORY PROCEDURE

Afghanistan Telecommunications Regulatory
Authority (ATRA)

ISLAMIC REPUBLIC OF AFGHANISTAN

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PART I: PRELIMINARY

1.1 Preamble

These Regulatory Procedures have been developed by the Afghanistan Telecommunications Regulatory Authority (the “ATRA”) pursuant to the Telecom Law of the Islamic Republic of Afghanistan (the “Telecom Law”).

1.2 Purpose

The purpose of these Regulatory Procedures is to provide further definition and direction regarding interconnection of optical fiber cable networks in Afghanistan, to encourage the conclusion of interconnection agreements on transparent, fair and reasonable terms.

1.3 Scope of Application

These Regulatory Procedures apply to all licensed optical fiber Service Providers requesting interconnection of all OFC services (namely, but not limited to: transiting, fiber ducting, dark fiber leasing, etc.), or from whom Interconnection of said services are requested, and shall apply to national, regional and municipal services.

1.4 Terms and Definitions

As used in these Regulatory Procedures the defined terms shall have the following meanings and shall refer to both the single and plural, and directed strictly at the optical fiber cable market:

“access”, in the context of interconnection between service providers, means the making available of telecommunications facilities and equipment, services or both facilities and services by one service provider to another service provider, for the purpose of providing interconnection, and includes access to network elements and associated facilities, access to physical infrastructure including buildings, ducts and masts, and access to network software systems including operational support systems, in each case strictly in connection with optical fiber network facilities;

“Co-location ” means accommodation of two or more switches, transmission equipment and antennas or other electronic communications equipment, or power generation equipment in, or on

a single building tower or other structure for the purposes of interconnecting communications networks or for other telecommunications purposes;

“Dominant Service Provider” means a service provider designated to have Significant Market Power in one or more telecommunications markets relevant to interconnection in accordance with Section 4 of these Regulatory Procedures;

“Essential Facility” means a telecommunication facility owned by a service provider (including an Interconnection Provider) which cannot feasibly, whether economically or technically be substituted. ATRA may declare certain facilities to be essential facilities;

“financially feasible” shall have the meaning given to it by the ATRA and published in guidelines from time to time. It shall also take into account international best practice and the ITU;

“interconnection” means the physical, technical and logical linking of one telecom network to other telecom networks, in order to ensure that Users of one telecom network are able to communicate with Users of other telecom;

“Interconnection Charges” means any fees or other amounts charged by an Interconnection Provider to an Interconnection Seeker in exchange for the provision of interconnection;

“Interconnection Information” shall have the meaning given to it in section 3.2;

“Interconnection Link” means a transmission path connecting the Point of Interconnection with the Network of an Interconnection Seeker;

“Interconnection Provider” means a service provider that provides, or that has an obligation to provide, Interconnection Services to an Interconnection Seeker;

“Interconnection Seeker” means a licensed service provider that requests or receives Interconnection Services from an Interconnection Provider;

“Long Run Incremental Costs” for the purposes of these Regulatory Procedures, means the forward looking costs of providing Interconnection Services calculated over an appropriately long duration and on the basis of specific increments in facilities, resources or volume of production;

“ATRA” means the Afghanistan Telecommunications Regulatory Authority;

“Network Termination Point” means the physical location at which end user telecommunications equipment is connected to the service provider’s network;

“not reasonable” means that a request for interconnection is not technically and financially feasible, as these terms are defined by the ATRA from time to time;

“OFC” means optical fiber cable

“Point of Interconnection ” means a physical or virtual point between the Interconnection Provider's network and the Interconnection Seeker's network where control of the facilities and the conveyance of calls over those facilities passes from the one service provider to the other;

“Reference Interconnection Offer” or “RIO” means the statement of terms and conditions on which a Dominant Service Provider which is obliged to provide a RIO offers Interconnection to Interconnection Seekers, including a full list of services to be supplied to the Interconnection Seeker and charges for each of such services, prepared and approved pursuant to Section 4.4;

“Regulations” means these Interconnection Regulations, 2018;

“Section” unless otherwise identified, means a section of these Regulatory Procedures;

“Significant Market Power” means a position of economic strength, either individually or jointly with others, permitting a service provider to an appreciable extent independently of customers or competitors, or otherwise constituting a position of dominance in one or more identified telecommunications service markets; and for purpose of these Regulatory Procedures, the optical fiber market.

“technically feasible” shall have the meaning given to it by the ATRA and published in guidelines from time to time. It shall also take into account technical specifications in accordance with international best practice and the ITU;

“telecommunications equipment” means equipment intended to be connected directly or indirectly to a telecommunications network in order to send, transmit or receive telecommunications services;

"telecommunications facility" means any facility, apparatus, or other thing that is used or is capable of being used for telecommunications or for any operation directly connected with telecommunications;

"traffic data" means any data processed for the purpose of the conveyance of telecommunications on any interconnected telecommunications network, or for the billing thereof; and

“transit services” means Interconnection that delivers traffic from the Point of Interconnection on one telecommunications network to the Point of Interconnection on another telecommunications network.

2 PART II: FUNCTIONS AND POWERS OF THE ATRA

2.1 Interconnection Functions and Powers

2.1.1 The ATRA shall have the functions and powers in relation to interconnection as set out in the Telecom Law, which are:

2.1.1.1 Promoting adequate, efficient interconnection of telecommunications networks by Service Providers to telecommunications services.

2.1.1.2 Facilitation of other service providers in order to permit interoperability of telecommunications services that originate or terminate in Afghanistan and to promote the development of competitive optical fiber market;

2.1.1.3 Establishing and maintaining an open, transparent, non-discriminatory and commercially viable regulatory framework for interconnection with a view to minimizing regulatory and other barriers to entry into the optical fiber cable market;

2.1.1.4 Promoting interconnection arrangements by facilitating and avoiding encumbering, negotiations between the parties to enable the Parties independently to reach privately executed interconnection agreements;

2.1.1.5 Ensuring that interconnection agreements otherwise meet the objectives of the Telecom Law and these Regulatory Procedures;

2.1.1.6 Determining which service providers have Significant Market Power (SMP) in the optical fiber cable market relevant for interconnection;

2.1.1.7 Regulating the prices for interconnection and access by Dominant Service Providers (DSP) in the optical fiber cable market for interconnection;

2.1.1.8 ensuring that DSPs in the optical fiber cable market for interconnection publish a Reference Interconnection Offer (RIO) in accordance with Section 4.4 of these

Regulatory Procedures, and any regulations, rules and orders applicable to the interconnection;

- 2.1.1.9 Resolving disputes related to interconnection in a timely and impartial manner to the extent that the parties to such disputes have not independently adopted a dispute resolution mechanism, and making decisions or orders specifying the terms of interconnection that shall be provided by one or more service providers in accordance with these Regulatory Procedures, rules and orders to apply in instances in which two

interconnecting parties have not independently entered into a private contract stipulating such terms of interconnection as between them.

2.2 Right to Interconnect and Obligation to Negotiate

2.2.1 All licensed Service Providers shall have the right to request interconnection from Service Providers, in the manner provided for in these Regulatory Procedures pursuant to Chapter 8 Article 25 of the Telecom Law.

2.2.2 Upon receipt of a written request by an Interconnection Seeker an Interconnection Provider shall enter into good faith negotiations to enter into an interconnection agreement to:

2.2.2.1 Connect and keep connected the telecommunications networks of both Service Providers;

2.2.2.2 Provide access as is reasonably requested in order for the Interconnection Seeker to provide optical fiber telecommunications service; and

2.2.2.3 Agree that interconnection is to be facilitated by the installation of appropriate telecommunications equipment, with each Service Provider responsible for its own equipment to facilitate interconnection.

2.2.3 The following actions or practices shall be deemed to violate the duty in Section 3.1.2 of these Regulatory Procedures to negotiate in good faith:

2.2.3.1 Obstructing or delaying negotiations, or failing to make reasonable efforts to resolve outstanding disputes;

2.2.3.2 Refusing to provide information about an Interconnection Provider's own optical fiber telecommunications services or optical fiber telecommunications network or other facilities that are necessary for the interconnection arrangements;

2.2.3.3 Misleading or coercing an Interconnection Seeker into reaching an agreement it would not otherwise have made;

- 2.2.3.4 interfering in any way with an Interconnection Seeker's ability to communicate with the ATRA, including having an Interconnection Seeker sign a non-disclosure agreement that precludes it from providing information requested by the ATRA; or
- 2.2.3.5 refusing to permit amendment of the interconnection agreement to take into account changes in circumstances, including changes to the Telecom Law, these Regulatory Procedures, or any applicable regulations, procedure, rule or orders.
- 2.2.4 Notwithstanding any other provision of these Regulatory Procedures, Service Providers shall not be obliged to provide Interconnection or to enter into any form of interconnection agreement that is sought by an Interconnection Seeker where the ATRA has made an Order confirming that the requested interconnection or access will:
 - 2.2.4.1 Cause or be likely to cause material danger, damage or injury to any person or to any property;
 - 2.2.4.2 Cause material damage or otherwise interfere with the operation of the Interconnection Provider's telecommunications network, telecommunications facilities or the provision of its telecommunications services; or
 - 2.2.4.3 Place a technical or financial burden on the Interconnection Provider which is not reasonable.
- 2.2.5 Service Providers and other interested parties may at any time request the ATRA to issue an order that clarifies or interprets the interconnection rights or obligations set out in the Telecom Law, these Regulatory Procedures, or any applicable regulations, Procedures, Rules or Orders.

2.3 Access to Interconnection Information

- 2.3.1 Interconnection information for purposes of these Regulatory Procedures means information relevant to Interconnection that is in the possession or control of the Interconnection Provider and that may assist the Interconnection Seeker to:
- 2.3.1.1 Formulate a request for interconnection; or
 - 2.3.1.2 Plan, establish, or maintain its optical fiber telecommunications service, or its optical fiber telecommunications network or both for the purpose of Interconnection, and includes but is not limited to technical specifications of the Interconnection Provider's telecommunications network, switching, routing and transmission equipment used in the network, signaling protocols used, traffic volumes, and any material changes to Interconnection Information, including actual and planned changes by the Interconnection Provider over a period of twelve (12) months that can be expected to affect the interconnection services or the telecommunications services or telecommunications networks of the Interconnection Seeker, and any other information identified by the ATRA.
- 2.3.2 Upon request in writing, Interconnection Providers are required to publish sufficient information about Interconnection to ensure Interconnection Seeker's network and services can achieve compatibility for the purposes of interconnection, alternatively provide Interconnection Information to Interconnection Seekers on request.
- 2.3.3 If an Interconnection Seeker is reasonably dissatisfied with an Interconnection Provider's response to the Interconnection Seeker's interconnection request under Sections 2.2.1 and 2.2.2, then the Interconnection Seeker may petition the ATRA for relief. Following such petition and subject to Section 2.2.4, the information referred to in Sections 2.2.1 and 2.2.2 shall be supplied within thirty (30) days of the written request or within such other time period as is specified by the ATRA. The Interconnection Provider may request an extension in writing from the ATRA, with sufficient justification for the extension, not later than five (5) working days before the due date, and the ATRA shall issue a response

to the extension request within five (5) working days following submission of the request, on good cause shown.

- 2.3.4 An Interconnection Provider seeking to deny a request for disclosure of any Interconnection Information on the basis that the requested information is confidential shall submit a request in writing to the ATRA identifying the specific information that it wants protected and explaining the commercial or other basis of the request. . The ATRA shall issue a response to the confidentiality request and any conditions applicable to the disclosure of confidential information.

2.4 Sharing and Co-location

- 2.4.1 Interconnection Provider with existing telecommunications facilities shall allow Co-location by Interconnection Seekers where such Co-location is technically and economically feasible and where no additional construction work is required.
- 2.4.2 The party requesting Co-location shall compensate the party required to provide co-location for such an amount as the parties may agree or, where the parties are unable to agree, either or both of the parties may apply to the ATRA for dispute resolution.
- 2.4.3 New telecommunications facilities shall be installed by an Interconnection Seeker in a manner that does not create an undue adverse effect on existing telecommunications facilities or other existing installations (including but not limited to, installations used to maintain public ways, water and gas lines, oil pipelines, and electrical installations). Any Interconnection Seeker installing new optical fiber telecommunications facilities shall conform to existing laws and regulations pertaining to the use of said facility and shall compensate persons incurring actual and reasonable costs for the relocation, modification or protection of existing facilities or installations which result from the installation of the new facilities.

2.5 Non-compliant Interconnection Agreements

If the ATRA decides that an interconnection agreement is not in compliance with the Telecom Law or these Regulatory Procedures, or any other regulations, rules, orders or terms of the optical

fiber license, it may issue an order requiring one or more of the parties to the agreement to amend the agreement within a specified time.

2.6 Cross Border Interconnection

In furtherance of the quest to promote Open Access and competition, Service Providers shall have the exclusive rights to interconnect with offshore or cross border optical fiber providers as long as said interconnection does not in any way violate the Telecom Law and any other relevant regulations of Afghanistan, or infringe on the obligations of the License. Where a licensed optical fiber operator seeks from ATRA any assistance to facilitate interconnection with a foreign provider, said request shall be submitted to ATRA formally by writing. Upon receipt of said request, ATRA shall respond formally in writing to the requesting party no more than 10 working days as of the date of receipt of the request. Without prejudice to the rights of the Service Provider to interconnect or intentionally delay an affirmative response by ATRA, ATRA may decide to carry out a due diligence of the impact of said interconnection pursuant to Part II Section 3.1.4 (Sub Part a, b, c) of these Regulatory Procedures where applicable. In the event that ATRA decides to carry out said due diligence, it shall inform the requesting party of its decision and provide reasons prompting said decision within 10 working days of receipt of the request. ATRA shall complete all findings and respond to the requesting party in a timely manner that shall not exceed 20 working days of the date of receipt of the request.

3 PART III: OBLIGATIONS OF DOMINANT SERVICE PROVIDERS

3.1 Designation of Dominance

- 3.1.1 The obligations set out in this Part IV apply to Service Provider that the ATRA has designated as being Dominant Service Provider with significant market power in the optical fiber market relevant to interconnection.
- 3.1.2 The ATRA may issue an order designating a Service Provider as being Dominant in optical fiber market relevant to interconnection only if:
- 3.1.2.1 The relevant product and service markets including their geographic scope and territory;
 - 3.1.2.2 Criteria and methodology to determine the degree of market power in the optical fiber market;
 - 3.1.2.3 Control of essential facilities within the optical fiber market;
 - 3.1.2.4 Price trends and pricing behavior; and
 - 3.1.2.5 Any other factor that ATRA determines may be relevant under Part VII of the Telecom Law.
- 3.1.3 A Service Provider which has been declared to be Dominant by ATRA may at anytime request ATRA to review the declaration by making a written application supported by evidence to indicate that the declaration is no longer applicable.
- 3.1.4 ATRA shall review the declaration and advise the Service Provider of its decision within a period of no longer than sixty (60) working days from the date of the Dominance Review Request, provided that ATRA determines that there is no further market study required to confirm the evidence provided by the Service Provider in the Dominance Review Request. If a further market study is required as determined by ATRA, then

ATRA shall not be bound by this time period until such time as the market study has been completed.

3.2 Response to Requests for Interconnection

3.2.1 Every Service Provider which is Dominant in the optical fiber market for interconnection shall respond to a request for interconnection within a period of no more than thirty (30) working days of receipt of the request, and ensure that:

3.2.1.1 Its terms and conditions of interconnection are no less favorable than any RIO that has been approved by the ATRA pursuant to Section 3.4;

3.2.1.2 It applies the same terms and conditions to all Interconnection Seekers, except where differences can be justified by reference to the distinguishable circumstances of certain Interconnection Seekers;

3.2.1.3 It offers interconnection to all Interconnection Seekers of the same quality and functionality as it provides for its own telecommunications service operations or those

of its affiliates , and in accordance with any standards or specifications determined by the ATRA; and

- 3.2.1.4 It only uses information received from Interconnection Seekers for the purposes for which it was supplied and does not disclose the information or otherwise use the information for any anti-competitive purpose

3.3 Publication of Interconnection Agreements

- 3.3.1 Every Service Provider which is Dominant in the optical fiber market for the purpose of interconnection shall, within ten (10) working days after execution of an interconnection agreement, file a copy of the agreement with the ATRA.

- 3.3.2 Subject to Sections 3.3.3, the ATRA shall place a copy of all interconnection or access agreements filed with it in accordance with Section 4.3.1 on its website, and shall make copies of filed agreements available on request by any Interconnection Seeker.

- 3.3.3 An Interconnection Provider may request that information contained in an interconnection agreement be protected as confidential information, pursuant to Section 2.3.2 and 2.3.4, and that such confidential information be excluded from the interconnection agreement published by the ATRA pursuant to Section 3.3.2. However:

- 3.3.3.1 Interconnection offered by any Dominant Service Provider only shall be considered confidential if:

- 3.3.3.1.1 the information for which the Dominant Service Provider requests Confidentiality treatment contains commercially sensitive information (including information that is subject to a pre-existing non-disclosure agreement with a third party); or

- 3.3.3.1.2 the disclosure of the information would have or would be likely to have a material adverse impact on the Dominant Service Provider; or

- 3.3.3.1.3 the disclosure of the information is, on balance, not required by the public interest; or,

- 3.3.3.1.4 any combination of the above factors.

3.3.3.1.5 The ATRA generally will consider information to be commercially sensitive if (i) the Dominant Service Provider demonstrates that disclosure would cause harm to it, including by providing an inappropriate commercial benefit to its competitors or if substantially similar information about its competitors is not publicly available; or (ii) the information describes the Dominant Service Provider's business procedures, technical or financial matters, information proprietary to it, the route of its network and location of its network facilities, or its practices, plans or its assessment of market conditions or similar matters are likely to be commercially sensitive.

3.3.3.2 Pursuant to the standard set forth in Section 3.3.3.1, the ATRA shall determine what information will be treated as confidential, and shall resolve any disputes regarding disclosure of information designated as confidential in interconnection agreements filed with it, in accordance with Section 3.2.5 of these Regulatory Procedures.

3.4 Reference Interconnection Offers (RIO)

3.4.1 Dominant Service Provider meaning Service Provider which is Dominant in the optical fiber market for interconnection shall prepare and submit for approval by the ATRA a RIO within the time period identified in any order or direction of the ATRA and in any event within 90 working days of the date of these Regulatory Procedures coming into force, unless otherwise agreed by the ATRA on good cause shown. The RIO shall comprise all services provided by the Service Provider in the interconnection market.

3.4.2 Subject to any order or direction issued by the ATRA, a RIO prepared by a Dominant Service Provider shall include in addition to Interconnection Information:

3.4.2.1 The scope, form, specification and technical requirements of interconnection, and a description of all Interconnection services provided by the Interconnection Provider;

3.4.2.2 the terms and conditions of access to any Essential Facilities that might be controlled by that Service Provider, and the terms and conditions of access to all ancillary or

supplementary services, facilities, premises or other property needed in support of interconnection;

- 3.4.2.3 Service level commitments, and applicable remedies for non-performance;
 - 3.4.2.4 All Interconnection Charges;
 - 3.4.2.5 Billing and settlement procedures;
 - 3.4.2.6 Ordering, forecasting, provisioning, testing and other service management procedures;
 - 3.4.2.7 Identification of all available Points of Interconnection and Interconnection Links, and the processes and options for obtaining additional Points of Interconnection and Interconnection Links;
 - 3.4.2.8 the exchange of information regarding changes to telecommunications networks or telecommunications services relevant to interconnection;
 - 3.4.2.9 technical specifications, standards and interoperability requirements and processes,
 - 3.4.2.10 signaling, routing and other traffic data requirements and other signaling features;
 - 3.4.2.11 information handling and confidentiality;
 - 3.4.2.12 term, termination, renewal and amendment procedures;
 - 3.4.2.13 any applicable security arrangements, including performance bonds;
 - 3.4.2.14 dispute resolution procedures; and
 - 3.4.2.15 any other terms, conditions or information required by the ATRA.
- 3.4.3 RIOs shall not take effect until approved by the ATRA, on the basis that the RIO meets the requirements of the Telecom Law, and these Regulatory Procedures and any later Procedure, Orders or Rules made by ATRA in this regard, having regard also to the express purpose of these Regulatory Procedures in section 1.2. The ATRA shall approve

a RIO or reject it within thirty (30) working days of its submission to the ATRA by the Dominant Service Provider.

- 3.4.4 Where the ATRA does not approve a RIO or rejects it, it shall issue a written determination providing reasons for not approving the RIO and identifying specific changes or improvements to be made by the Dominant Service Provider to the RIO to ensure compliance with the Telecom Law, these Regulatory Procedures or other related regulations, decisions or orders. The Dominant Service Provider shall make the required

changes without delay, and in any event within a period of time identified by the ATRA, and re-submit the RIO for approval.

- 3.4.5 Once a RIO has been approved by the ATRA, it shall be published by the Dominant Service Provider not later than fifteen (15) working days from the date of approval by:
 - 3.4.6 Filing a copy with the ATRA, who shall publish the RIO on the ATRA's official website;
 - 3.4.7 Making a copy available to the public at its principal business offices;
 - 3.4.7.1 Publishing the agreement on the Dominant Service Provider's website; and
 - 3.4.7.2 Sending a copy to any Interconnection Seeker on request at no charge.
- 3.4.8 A Dominant Service Provider shall periodically review and update its RIO but:
 - 3.4.9 Not less than once every 3 years; or
 - 3.4.10 in any event, as directed by the ATRA from time to time, provided that ATRA shall not unreasonably require changes that are not in conformance with these Regulatory Procedures, the Telecom Law or an Order or decision of the ATRA.

3.5 Determination of Interconnection Charges

- 3.5.1 Interconnection Charges of all Service Providers designated to be Dominant in the optical fiber market for interconnection shall be cost-based.
- 3.5.2 Notwithstanding any other exercise of authority by the ATRA relating to tariffs, the RIO Interconnection Charges of any Dominant Service Provider shall be submitted by the Dominant Service Provider to the ATRA for approval prior to taking effect. In addition, an Interconnection Seeker may file a complaint with the ATRA about the interconnection charges of an Interconnection Provider that is a Dominant Service Provider if the Interconnection Seeker reasonably believes that such charges are not cost-based. The ATRA may require the Dominant Service Provider to provide information, to establish the basis of all such Interconnection Charges and related costs. The ATRA may require a Dominant Service Provider to make changes to such Interconnection Charges as

necessary to meet the requirements of these Regulatory Procedures and any finding of Significant Market Power in optical fiber market in accordance with Articles 21, 22, 23 and 24 of the Telecom Law.

- 3.5.3 In establishing cost-based Interconnection Charges, under the circumstances set forth in Section 3.5.2, Dominant Service Providers shall use efficient forward looking Long Run Incremental Costs (LRIC) or such other costing methodology as may be prescribed by the ATRA. The ATRA may issue further Regulations, Procedures, orders or notices regarding the determination of Interconnection Charges and appropriate application of LRIC or other costing methodologies.
- 3.5.4 Pending the implementation of any costing methodology pursuant to Section 4.5.3, the ATRA may establish Interconnection Charges by benchmarking them against relevantly similar charges in countries designated by the ATRA, and otherwise as the ATRA may from time to time prescribe.
- 3.5.5 Interconnection Charges shall not exceed the retail charges of the Dominant Service Provider for the provision of any equivalent services to retail or end user customers. Interconnection Charges shall also be stated clearly and unbundled, so that an

Interconnection Seeker does not have to pay for anything that it does not require as part of its interconnection request.

3.5.6 The Interconnection Charges of a Dominant Service Provider shall be calculated in such a way that they distinguish and separately price at least the following aspects of Interconnection:

3.5.6.1 Installation or set-up charges for the initial implementation of interconnection or related telecommunications facilities access sufficient only to cover costs where these are actually incurred;

3.5.6.2 Periodic lease or rental charges for the use of facilities, equipment and other identified resources if necessary;

3.5.6.3 Any other charges.

3.5.7 For the purposes of reconciling interconnection traffic measurements, all operators shall regularly synchronize their clocks to Coordinated Universal Time (CUT).

3.5.8 Changes in Interconnection Charges

3.5.9 A Dominant Service Provider shall not increase or add to Interconnection Charges previously reviewed and approved by ATRA without the prior written authorization of the ATRA. ATRA's approval or rejection of the change in Interconnection Charges shall be given within a period of sixty (60) working days of the request with such data and information supporting the request as required by ATRA. In requesting such authorization, a Dominant Service Provider shall notify all other Service Providers that may be affected by the increase and the ATRA shall not authorize the increase without permitting affected Service Providers to have an opportunity to comment on the proposed

increase, provided that comments from affected Service Providers shall be sought and obtained within the sixty (60) working day period referred to in this Section.

- 3.5.10 Where the ATRA authorizes a Dominant Service Provider to increase Interconnection Charges, the Dominant Service Provider shall give Interconnection Seekers at least thirty (30) day notice in writing before the new charges come into effect.
- 3.5.11 A service provider may, upon written notice to the ATRA, decrease its Interconnection Charges at any time without prior approval from the ATRA, provided that in the case of a Dominant Service Provider, they remain cost-based and sufficiently unbundled or otherwise compliant with the requirements of the ATRA in relation to the charges of a Dominant Service Provider.

3.6 Accounting and Financial Information

- 3.6.1 A Service Provider which is Dominant in the optical fiber market for interconnection may be required by the ATRA to maintain a cost accounting system which, in the opinion of the ATRA, is suitable to demonstrate that Interconnection Charges have been determined in accordance with Section 3.5.1. Dominant Service Providers shall implement and maintain their cost accounting systems in accordance with any decisions, orders, rules, procedures or notices issued by the ATRA pursuant to these Regulatory Procedures, and in the time provided.
- 3.6.2 If, and as required pursuant to any order, rules, procedures or notices issued by the ATRA, Dominant Service Providers shall maintain separate statements of accounts in respect of Interconnection Services and all other telecommunications services, sufficient to identify all applicable elements of costs and revenues, the basis of their calculation and the detailed allocation and attribution methods used.
- 3.6.3 Any statements of accounts maintained pursuant to Section 3.6.2 shall also be sufficient to demonstrate that the Dominant Service Provider provides interconnection to Interconnection Seekers on substantially the same conditions as it provides those services or facilities for its own optical fiber operations or those of its affiliates, and so shall specifically identify the costs allocated to services and facilities that are equivalent to

Interconnection and provided for its own business units, and all applicable transfer prices or other charges for equivalent services or facilities provided to affiliated companies.

- 3.6.4 The statements of accounts maintained pursuant to Sections 3.6.1 or 3.6.2 shall be submitted for review on request by the ATRA and, if the ATRA so orders, may be independently audited by an independent auditor chosen by the ATRA.

3.7 Further Obligations of Dominant Service Providers

- 3.7.1 Upon request from an Interconnection Seeker, made in accordance with Section 4.3.1 of these Regulatory Procedures, a Service Provider which has been designated as being Dominant in the optical fiber market for interconnection shall provide:

- 3.7.1.1 Services that enable optical fiber across the network of the Interconnection Provider, including but not limited to:

3.7.1.1.1 Capacity or traffic termination; and

3.7.1.1.2 Transit services;

- 3.7.1.2 Sufficient Interconnect Link capacity to enable transmission, switching and routing of optical fiber in accordance with the capacity forecasts and estimates provided by the Interconnection Seeker;
- 3.7.1.3 Access to identified optical fiber facilities, equipment, services and other resources relevant to interconnection or that ATRA may from time to time identify;
- 3.7.1.4 Access to any Essential Facility owned by that Dominant Service Provider as specified by the ATRA from time to time;
- 3.7.1.5 Access to bundled or unbundled network elements in accordance with an Interconnection Seeker's request, any applicable RIO and any decisions, orders or notices issued by the ATRA pursuant to these Regulatory Procedures; and
- 3.7.1.6 Operator services such as directory enquiries, operator assistance and emergency services, in this case only, if required by the ATRA.14

4 PART IV: POINTS OF INTERCONNECTION

4.1 Technically Feasible Points

- 4.1.1 Points of Interconnection shall be established and maintained at any technically feasible point in an Interconnection Provider's optical fiber network.
- 4.1.2 An Interconnection Seeker shall provide sufficient information to the Interconnection Provider in relation to a requested Point of Interconnection which does not otherwise exist in the Interconnection Provider's network or which requires change in that network to enable the Interconnection Provider to assess all provisioning requirements and to estimate the costs of establishing or changing the Point of Interconnection.
- 4.1.3 Where an Interconnection Seeker requests interconnection at points other than those that have either been established by an Interconnection Provider or specified in a Dominant Service Provider's RIO, or requests additional Interconnection at any Point of Interconnection and provided that the requested points are technically feasible points, such interconnection shall be made available except where the ATRA has issued an order pursuant to sub-section 3.1.5.

4.2 Costs and Provisioning of Points of Interconnection

- 4.2.1 An Interconnection Seeker that makes a request under Section 4.1.3 shall be responsible for the costs of establishing the Point of Interconnection, the costs of additional

Interconnection Links or Interconnection Services and other costs of establishing the requested interconnection.

4.2.2 Points of Interconnection shall be established as soon as practicable following a request and in any case not later than thirty (30) working days from the date of the request unless:

4.2.2.1 The request is not technically or financially feasible; or

4.2.2.2 The Interconnection Provider seeks an order of the ATRA extending the provisioning period on good cause shown.

4.3 Written Request and Reply

4.3.1 Where an Interconnection Seeker requests Interconnection from an Interconnection Provider, the Interconnection Seeker's request for Interconnection shall be made in writing to the Interconnection Provider and shall include:

4.3.1.1 Information in relation to the form and technical requirements of Interconnection;

4.3.1.2 The date(s) the requested Interconnection is to be operational;

4.3.1.3 An estimate of the interconnection capacity required, including Interconnection Link capacity; and

4.3.1.4 Where the Interconnection Provider is a Dominant Service Provider which is obliged to provide a RIO, such other information as is required pursuant to that Dominant Service Provider's RIO.

4.3.2 Within thirty (30) working days from receipt of the Interconnection Seeker's request for interconnection, the Interconnection Provider shall deliver a written reply to the Interconnection Seeker:

4.3.2.1 Stating whether the Interconnection Provider can provide the requested interconnection and related optical fiber facilities;

- 4.3.2.2 Requesting any additional information reasonably required to assess the request for interconnection and any related facilities access; and
- 4.3.2.3 Identifying any other requirements for providing the requested interconnection or facilities access.
- 4.3.3 If the Interconnection Provider does not respond to the Interconnection Seeker's request in accordance with Section 4.3.2, or determines that it cannot provide the interconnection or related facilities access requested by the Interconnection Seeker, the Interconnection Seeker may apply to the ATRA for assistance in accordance with these Regulatory Procedures

4.4 Resulting Interconnection Terms

- 4.4.1 If the Interconnection Provider determines that it can provide the requested interconnection and related facilities access, the Interconnection Provider's supply of Interconnection Services will be subject to:
 - 4.4.1.1 where the Interconnection Provider is a Dominant Service Provider which is obliged to provide a RIO, the RIO of that Interconnection Provider; or
 - 4.4.1.2 if the Interconnection Provider is not a Dominant Service Provider, the parties shall negotiate in good faith and enter into an interconnection agreement in accordance with these Regulatory Procedures.
- 4.4.2 Except as otherwise authorized by the ATRA in any particular circumstance, an interconnection agreement shall be entered into as soon as practicable but not later than forty-five (45) days after the Interconnection Provider has received a request for interconnection.

PART VII: OTHER TERMS OF INTERCONNECTION

4.5 Service Standards

- 4.5.1 Interconnection Providers shall provide Interconnection in accordance with any service level commitments or other service standards included in an interconnection agreement as concluded with the Interconnection Seeker.
- 4.5.2 The quality of the Interconnection Services provided by Service Providers shall also comply with any standards set by the ATRA from time to time. Dominant Service Providers which are obliged to offer a RIO which shall include appropriate remedies for failure to meet applicable service standards or commitments in their RIO.

4.6 Technical Compatibility

- 4.6.1 Interconnection Seekers and Interconnection Providers shall take all reasonable steps to maintain the technical compatibility and interoperability of their interconnected optical fiber networks by, amongst other things:
- 4.6.1.1 Exchanging sufficient information on the technical characteristics of their optical fiber networks, both in the initial implementation of interconnection and in the continued delivery of Interconnection; and
- 4.6.1.2 Taking full account of, and establishing their networks in accordance with, internationally recognized standards relevant to interconnection, including the international standards and specifications adopted and/or recommended by the International Telecommunications Union.
- 4.6.2 Interconnection Seekers and Interconnection Providers shall also comply with any technical standards or specifications set by the ATRA from time to time.

4.7 Requests for New Services and Network Changes

- 4.7.1 Where an Interconnection Seeker requests a new form of interconnection or change to Interconnection, it shall submit its request in writing to the Interconnection Provider in

accordance with Section 4.3 of these Regulatory Procedures, and the request shall be processed in accordance with the provisions of Parts V and VI of these Regulatory Procedures and the terms of the applicable interconnection agreement.

4.7.2 Interconnection Providers shall provide:

4.7.2.1 At least one (1) month prior written notice to Interconnection Seekers of planned changes to their optical fiber networks that may have any significant effect on the Interconnection Services or networks of the Interconnection Seekers unless a longer period is agreed to between the Interconnection Provider and Interconnection seeker in an interconnection or other agreement;

4.7.2.2 At least fifteen (15) days' prior written notice to Interconnection Seekers of any planned interruption of Interconnection Services for upgrading, maintaining or repairing the Interconnection Provider's network or facilities that may have any significant effect on the Interconnection Services or the telecommunications services or networks or the Interconnection Seeker, subject always to the provisions of Chapter 8, Article 25 of the Telecom Law and relevant license (for purposes of clarity, this requirement does not apply to any interruption that is not planned or that is in response to exigent circumstances); and

4.7.2.3 In both (a) and (b), the Interconnection Provider and Interconnection Seeker(s) shall, if necessary, negotiate any related commercial terms, including the time it will take to restore service which shall be as short as possible, and the reasonable sharing of the costs resulting from the identified change or any changes to the Interconnection Charges. If the parties are unable to agree on the commercial terms, either party may request the assistance of the ATRA in resolving the matter.

4.8 Cost Sharing of Interconnection Links

4.8.1 Unless otherwise agreed by the parties (or, in the event that the parties are unable to agree, then as directed by the ATRA), or as otherwise provided in these Regulatory Procedures, the Interconnection Provider and the Interconnection Seeker shall each be

responsible for the cost of provisioning Interconnection Links, arising from an Interconnection request, as follows:

- 4.8.1.1 In the case of equipment related to the links, each party shall be responsible for its own equipment; and
- 4.8.1.2 In the case of the links themselves, each party shall be responsible for the cost of provisioning links up to an agreed demarcation point between the networks of each party, on the basis that neither party should be liable for the cost of an entire link in order to achieve Interconnection.
- 4.8.2 Where the Interconnection Provider has supplied the Interconnection Link, its charges to the Interconnection Seeker shall be based on the actual costs to the Interconnection Provider of the Link, arising from the Interconnection request, and shall, at a minimum, be separated into initial installation or set-up costs, if any, and periodic lease or rental costs.

4.9 Numbering

If applicable to the relevant optical fiber networks and the type of interconnection agreed to by an Interconnection Seeker and Interconnection Buyer, Interconnection Seekers and Interconnection Providers shall ensure that all Interconnection complies with any national numbering plan and any numbering practices prescribed by the ATRA.

4.10 Traffic Data

No person shall suppress, modify or otherwise change any traffic data where such change has the purpose or effect of misrepresenting the source, routing or other characteristics of the related networks, or in any other way would result in a change to applicable Interconnection Charges. For the avoidance of doubt, "change any traffic data" shall include changing or removing information for one Service Provider's network (whether within Afghanistan or outside it) and terminated on another Service Provider's network, so as to present that capacity or traffic to the Interconnection Provider as having been originated within Afghanistan, or on a network other than the Interconnection Seeker's network, and no person may use equipment that in any way causes or contributes to this outcome.

4.11 Termination and Suspension of Agreements

4.11.1 An Interconnection Provider may not terminate an interconnection agreement unless:

4.11.1.1 The termination is due to:

4.11.1.1.1 Material and un-remedied breach of the interconnection agreement and a material breach will include repeated failure to make payment of interconnection fees and charges by an Interconnection Seeker despite reasonable notice having been given to remedy the breach by making payment; or

4.11.1.1.2 Liquidation or insolvency of the Interconnection Seeker; or

4.11.1.1.3 Agreement between the parties; and

4.11.1.2 The Interconnection Provider gives the Interconnection Seeker and the ATRA sixty (60) days prior written notice of its intention to terminate and specifying the grounds of termination; and

4.11.1.3 The Interconnection Seeker has been given not less than thirty (30) days to remedy the identified grounds for termination and has failed to do so; and

4.11.1.4 The Interconnection Provider has obtained the ATRA's written authorization for the interconnection agreement to be terminated, and complies with any subscriber notification or transition requirements identified by the ATRA.

4.11.2 Interconnection Providers shall not suspend the provision of Interconnection except as set out in 7.7.1 above, or where authorized in writing by the ATRA or where necessary to prevent or remedy any material damage or interference to the operation of the Interconnection Provider's network or Interconnection Services, anticipated or actual, or any immediate risk of injury or other danger to any person or damage to property. The Interconnection Provider shall give as much notice as possible to the Interconnection Seeker, and use its reasonable endeavors to minimize the interruption and its effect on communications, and shall where possible, provide alternative routing or transmission at no extra cost to the Interconnection Seeker. The ATRA must be informed immediately

(and in any event within one hour, in the manner specified by the ATRA) of any interruption or suspension of Interconnection and may determine whether such interruption or suspension is reasonable or justified in all the circumstances of the case and issue appropriate instructions to the parties concerned including regarding cessation, modification or resumption of Interconnection.

5 PART VIII: DISPUTE RESOLUTION

5.1 ATRA Procedures

8.1.1 Any dispute that arises regarding the proper application of these Regulatory Procedures, the terms of interconnection or related telecommunications facilities access or the provision of Interconnection Services may be referred to the ATRA for dispute resolution

PART IX: COMPLIANCE AND ENFORCEMENT

5.2 Submission of Information

5.2.1 The ATRA may require a Service Provider or any other person to submit, at that person's expense, any information that the ATRA considers necessary for the purposes of exercising its responsibilities, functions and powers under the Telecom Law or these Regulatory Procedures. The information shall be submitted in such form, manner and time specified by the ATRA under Chapter 2, Article 7 of the Telecom Law.

6 PART X: APPLICATION

6.1 Short Title and Date of Entry into Force

6.1.1 These Regulatory Procedures shall be known as the Interconnection Regulations, 2018 and shall come into effect on the date on which they are adopted by the ATRA.