Revised Regulations of Anguilla: T6-2

TELECOMMUNICATIONS ACT (R.S.A. c. T6)

TELECOMMUNICATIONS AND FREQUENCY LICENSING REGULATIONS

Note: These Regulations are enabled under section 51 of the Telecommunications Act, R.S.A. c. T6.
(Am. in L.R. 15/12/2006)

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PART 1

PRELIMINARY

Interpretation

1. (1) In these Regulations unless the context otherwise requires—

"Act" means The Telecommunications Act;

"PUC Act" means the Public Utilities Commission Act.

(2) Unless otherwise specified, terms used in these Regulations shall have the meanings assigned to them under the Act.

Scope

2. These Regulations apply to licences to operate public telecommunications networks, licences to provide telecommunications services, licences to land and operate submarine cables, special licences and to frequency authorisations.

PART 2

APPLICATIONS FOR LICENCES AND FREQUENCY AUTHORISATIONS

Application procedure

3. (1) Any person required to obtain an individual licence or a frequency authorization shall apply to the Commission in the manner specified in the Telecommunications Code.

(2) The Commission shall cause to be published in the *Gazette* a notice that an application for a licence or a frequency authorisation has been received by the Commission and that it is available for public scrutiny at the offices of the Commission.

(3) Except with respect to applications for special licences, the Commission shall afford interested parties a specified period during which they may submit written representations on applications for licences and frequency authorisations, or otherwise consult with such persons in good faith.

(4) The Commission may make a determination as to which application is required for any particular type or class of telecommunications network or telecommunications service.

Applications for frequency authorisations

4. (1) Applications for frequency authorisations shall be granted or refused in accordance with the spectrum plan of Anguilla.

(2) In accordance with the spectrum plan of Anguilla and the provisions of the Act, the Commission shall establish procedures to determine applications for frequency authorisations for frequency bands used to provide radiocommunication services.

(3) Any procedures established by the Commission pursuant to subsection (2) shall be objective, transparent and non-discriminatory.

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(4) A decision to establish procedures for determining applications for frequency authorisations may be a significant substantive or procedural decision that affects persons within the meaning of section 13 of the PUC Act[1].

(Am. in L.R. 15/12/2014)

(5) Notwithstanding any other provision of the Act or these Regulations, the Commission may establish one or more separate application procedures, exempt from any the provisions of these Regulations or establish class licences for use of frequency bands for personal or similar uses, where the effective and appropriate management of the spectrum would not be adversely affected, or where the risk of causing harmful interference is negligible.

Contents of applications

5. (1) Applicants for individual licences and frequency authorisations shall provide such information as the Commission shall specify, which may include—

(a) details regarding the applicant, including the applicant's name, legal status, business address, the address of its registered office and other applicable contact information;

(b) details regarding the type of telecommunications networks and telecommunications services and the frequencies for which the application is being submitted;

(c) in the case of a licence to land or operate a submarine cable, details regarding the place of landing, capacity and other matters;

(d) information regarding the applicant's directors, partner, management, officials and controlling persons;

(e) information regarding the applicant's background and other licences or frequency authorisations held by the applicant or any of its affiliates;

(f) information describing the network or service to be supplied;

(g) details regarding the applicant's business plans, including the estimated date upon which it will commence the activities that are the subject of the application;

(h) information regarding the applicant's proposed rates;

(i) details, policies, strategies or representations regarding applicant's intention and ability to comply with the Act, the Regulations, the Telecommunications Code or any conditions of the licence or frequency authorisation; and

(j) such other information as the Commission may require in order to carry out its duties under the Act.

(2) The Commission shall, in the Telecommunications Code, prescribe the instructions for applicants, the forms of applications for licences and frequency authorisations and the charges for submitting an application.

(3) The Commission may require applicants to submit further information pursuant to paragraph (1)(j) and may refrain from considering or acting upon the application until the information is supplied.

[1] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.

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(4) Each applicant will be bound by the terms, commitments, offers, plans and obligations stated in its application to the extent that such are incorporated into its licence or frequency authorisation.

(5) The applicant must immediately notify the Commission of any change in the information contained in an application for a licence or a frequency authorisation or that is subsequently submitted to the Commission by the applicant.

Granting of licences and frequency authorisations

6. (1) The Commission may refuse to grant any application for an individual licence or for a frequency authorisation where—

(a) the applicant is ineligible to hold such a licence or frequency authorisation;

(b) the information provided under section 5 in support of such application is incomplete or unsatisfactory;

(c) where granting the application would be contrary to a determination made pursuant to section 8(4) and the Act to grant an exclusive licence or a limited number of licences and frequency authorisations; or

(d) the granting thereof would otherwise be inconsistent with applicable policies or Regulations or the written directions of the Governor in Council.

(2) Where an application is refused, the Commission shall notify the applicant in writing, giving the reasons for the refusal.

(3) Where a licence or frequency authorisation is granted, the Commission shall notify the applicant and shall cause to be published in the *Gazette* a notice to that effect in accordance with section 13 of the PUC Act[2].

(Am. in L.R. 15/12/2014)

Confidentiality

7. (1) Information submitted to the Commission on or in connection with an application shall generally not be considered information subject to the restrictions on disclosure of information set forth in section 44 of the PUC Act[3].

(Am. in L.R. 15/12/2014)

(2) Notwithstanding subsection (1), the Commission shall, as provided in section 44(3)(b) of the PUC Act[4], consider representations from applicants or other persons submitting information that may fall within the scope of section 44(1)(b) of the PUC Act[5], that such information should not be made available to the public or otherwise be disclosed.

(Am. in L.R. 15/12/2014)

[2] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.
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PART 3

CONTENTS OF LICENCES AND FREQUENCY AUTHORISATIONS

Individual licences and frequency authorisations

8. (1) The Commission may, in accordance with the Act, determine—

(a) the conditions of any licence or frequency authorisation, including the term and expiration, the time required for an application for renewal, the circumstances under which the licence or frequency authorisation may be suspended, terminated or amended and technical matters including, in the case of frequency authorisations, the frequency bands authorised, the appropriate power emission levels and other technical standards and requirements; and

(b) the payment of any initial, annual, renewal or other fees payable by any licensee or authorisation holder.

(2) The Commission may specify that certain conditions may not apply to certain types or classes of operators of telecommunications networks or providers of telecommunications services.

(3) The Commission may attach special conditions to a licence or a frequency authorisation where to do so would be justified and consistent with the requirements of the Act, these Regulations and the Telecommunications Code.

(4) The Commission may grant an exclusive licence or frequency authorisation or a limited number of licences and frequency authorisations where the Commission determines that it would be consistent with the Act and these Regulations to do so.

(5) Unless the Commission, in a written decision, specifically determines to the contrary, a decision to grant an exclusive licence or frequency authorisation or a limited number of licences and frequency authorisations is a significant substantive or procedural decision that affects persons within the meaning of section 13 of the PUC Act[6].

(Am. in L.R. 15/12/2014)

Class licences

9. (1) The Commission may adopt a class licence for any telecommunications networks or telecommunications services, in lieu of any licence for which the Act requires an individual licence.

(2) A class licence gives a person the right to carry on the activities specified therein upon compliance with the licence and such registration requirements as the Commission may specify.

(3) A decision to adopt a class licence is a significant substantive or procedural decision that affects persons within the meaning of section 13 of the PUC Act[7].

(Am. in L.R. 15/12/2014)

(4) A class licence shall specify the telecommunications networks or telecommunications services it authorises, a person's eligibility for a class licence and the conditions of the class licence, including—

(a) the scope of the licensed networks or services;

(b) any applicable technical and operational standards or conditions;

[6] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.
[7] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.

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(c) the location in which the authorised networks are to be operated or the authorised services to be provided;

(d) the duration of the class licence; and

(e) any other requirements that must be satisfied, including the filing of annual or periodic information updates or reports by individual members of the class.

(5) To operate a telecommunications network or provide a telecommunications service pursuant to a class licence, a person must, before doing so, notify the Commission, in the manner specified in the Telecommunications Code or in such class licence, of his or her intention to operate such network or provide such service, and submit such information in writing and pay such fee as the Commission may specify.

(6) Within such period as may be specified in the Telecommunications Code, the Commission shall issue to a person who notified the Commission pursuant to subsection (5) a declaration that such person is authorized to operate the telecommunications networks or provide the telecommunications service authorised by the class licence.

(7) Where it considers appropriate to do so, the Commission may issue the declaration referred to in subsection (6) automatically upon receipt of the registration pursuant to subsection (5).

(8) A person licensed under a class licence must notify the Commission of any change or inaccuracy in its registration or any change in its operations that would render it ineligible for the class licence.

Licensing of private, closed user group, value added or other telecommunications networks and services

10. (1) The Commission and the Minister may determine that one or more operators of a private, closed user group or value added telecommunications network, or a provider of a private, closed user group or value added telecommunications service, are required to obtain a licence or licences where the Act or the circumstances require.

(2) Any determination that any such operators or providers require licences pursuant to section 4(12)(a) of the Act is a significant substantive or procedural decision that affects persons within the meaning of section 13 of the PUC Act[8].

(Am. in L.R. 15/12/2014)

(3) The licence that any such operator or service provider may be required to obtain may be an individual licence or a class licence, as determined by the Commission.

Special licences

11. The Commission may, in determining whether to grant special licences under section 16 of the Act, adopt the requirements of these Regulations with respect to applications for and the contents of such special licences.

[8] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.

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PART 4

TRANSFERS

Transfers of significant interests

12. (1) Every person who owns or holds a significant interest in an operator or service provider shall comply with sections 5(2) to (6) of the Act and the Telecommunications Code before selling, transferring, charging or otherwise disposing of his interest in such operator or service provider, or any part thereof.

(2) Every person who owns or holds a significant interest in the holder of a frequency authorisation shall comply with sections 10(2) to (6) of the Act and the Telecommunications Code before selling, transferring, charging or otherwise disposing of his interest in such holder, or any part thereof.

PART 5

COMMISSION REGISTER

Register of licensees and frequency authorisation holders

13. (1) The Commission shall maintain a register of licensees and holders of frequency authorizations and such other information as the Commission deems appropriate, other than information the disclosure of which is proscribed by section 44 of the PUC Act[9].

(Am. in L.R. 15/12/2014)

(2) The register shall be open to public inspection, without charge, at the offices of the Commission and, as determined by the Commission, made available electronically through the Internet.

PART 6

MISCELLANEOUS

Citation

14. These Regulations may be cited as the Telecommunications and Frequency Licensing Regulations, Revised Regulations of Anguilla, T6-2.

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[9] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.

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