Revised Regulations of Anguilla: T6-8

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

UNIVERSAL SERVICE AND PUBLIC TELECOMMUNICATIONS REGULATIONS

Note: These Regulations are enabled under section 51 of the Telecommunications Act, R.S.A. c. T6.

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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;

"specified provider" means the service provider designated by the Commission to provide one or more universal services;

"universal service" means each of the services set forth in, or prescribed by, the Commission pursuant to, section 3;

"universal service fund" means any fund established by the Commission pursuant to section 11.

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

Scope

2. The aim of these Regulations is to ensure the availability throughout Anguilla of universal services by establishing the obligations of certain providers of telecommunications services and the means of funding those obligations and to establish certain other obligations applicable to service providers.

PART 2

UNIVERSAL SERVICES

Universal services

3. (1) The following services are universal services for purposes of these Regulations—

(a) access to the public telephone service, as set out in section 4;

(b) the provision of a free telephone directory, as set out in section 5;

(c) the provision of a directory inquiry service, as set out in section 5;

(d) the provision of public pay telephones, as set out in section 6;

(e) the provision of the universal services listed in paragraphs (a) to (c) above, or such other services as the Commission may add pursuant to subsection (2), to low income or other special classes of users, as set out in section 7.

(2) The Commission may, in accordance with section 19 of the Act, add services to the list of services set out in subsection (1), or modify obligations with respect to any universal service.

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(3) A decision by the Commission pursuant to subsection (2) is 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)

Provision of access to public telephone service

4. (1) A specified provider designated to provide access to a public telephone service shall satisfy an end user's reasonable request to provide, at a physical location, a connection to a public telecommunications network in order to provide, at a minimum, access to a public telephone service.

(2) Any connection provided by a specified provider pursuant to subsection (1) shall, subject to the specified provider's licence, be capable of allowing end users to—

(a) make and receive national and international telephone calls;

(b) make and receive data communications at data rates that are sufficient to permit functional access to the Internet;

(c) have access to a directory inquiry service, including operator assisted information services; and

(d) have access to emergency telecommunications services free of charge,

taking into account prevailing technologies used by the majority of subscribers and technological and economic feasibility.

Telephone directory and directory inquiry service

5. (1) A specified provider designated to provide a telephone directory and a directory inquiry service shall provide to its end users and to other service providers, based on data provided to it in accordance with subsection (3)—

(a) free of charge, a directory of all subscribers, in a form approved of by the Commission, whether printed or electronic or both, that is updated at least once in each year; and

(b) a directory inquiry service made available to all end users, including users of public pay telephones.

(2) A telephone directory or a directory inquiry service referred to in subsection (1) shall comprise, and make available information regarding, all subscribers of public telephone services in Anguilla, including those with fixed, mobile and personal numbers, who have not refused to be included in such directories or service and, if the service provider is not otherwise in the possession of such information, who have provided the necessary information.

(3) Notwithstanding subsection (1), as permitted by the Commission, a specified provider may provide information about its or other service provider's subscribers who have not refused to be included therein, through means other than the public telephone service.

(4) The specified provider designated under subsection (1) shall—

(a) keep a record of all subscribers of public telephone services in Anguilla, including those with fixed, mobile and personal numbers, who have not refused to be included in that record;

[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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(b) allow any other service provider or other person to have access to any information contained in such record in accordance with such terms and conditions as may be specified by it and approved by the Commission; and

(c) apply the principle of non-discrimination to the treatment of information that has been provided to it by other service providers or which it has in its possession or under its control.

(5) Every service provider, other than the specified provider designated under subsection (1), shall pay such specified provider its fair share of the cost of publication of the directory of subscribers in accordance with an agreed upon formula that is based on the number of such service provider's end users listed and the total number of subscribers listed in such directories.

Public pay telephones

6. (1) The Commission may designate one or more specified providers to provide public pay telephones to meet the reasonable needs of the population in terms of geographical coverage, the number of telephones, the accessibility of such telephones to disabled users and the quality of services.

(2) The Commission may specify terms and conditions applicable to the provision of public pay telephones, for the purpose of ensuring that the requirements specified in subsection (1) are met.

(3) A specified provider providing public pay telephones shall ensure that a user of any such public pay telephones—

(a) may make emergency calls, as set forth in section 18, without the necessity to use coins or cards or any other means of payment; and

(b) have access to a directory inquiry service, as set forth in section 5(1)(b).

Low income and other special user schemes

7. (1) The Commission may require that a specified provider provide rate options or packages of telecommunications services to end users that depart from those provided under normal commercial conditions.

(2) In specifying the requirements pursuant to subsection (1), the Commission—

(a) shall ensure that end users on low incomes or having special social needs are not prevented from having access to or using a public telephone service or other universal services;

(b) may permit the specified provider to provide service options or packages to such users that vary from the service provided under normal commercial conditions; and

(c) shall take due account of any existing obligations of the service provider to provide such rate options or packages and of the need for the specified provider to take measures to ensure that such users do not abuse such service options or packages to the detriment of the service provider.

(3) A decision by the Commission pursuant to subsection (1) is a significant substantive or procedural decision that affects persons within the meaning of section 13 of the PUC Act[2].

(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

PROVISION AND TERMINATION OF UNIVERSAL SERVICE

Provision of universal service

8. (1) The Commission may, in accordance with section 19 of the Act, periodically determine the manner in which a universal service shall be provided.

(2) The Commission shall designate one or more service providers to be specified providers for a universal service.

(3) The designation of a service provider as a specified provider shall be set out as a condition of such service provider's licence or shall be otherwise specified by such means as the Commission may from time to time determine.

(4) The Commission shall designate one or more specified providers on a transparent and non-discriminatory basis using such mechanisms or methodologies as it shall specify.

(5) A decision by the Commission to designate a specified provider for any universal service added pursuant to section 3(2) is a significant substantive or procedural decision that affects persons within the meaning of section 13 of the PUC Act[3].

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

Termination of a universal service

9. (1) A specified provider that wishes to terminate the general offering to the public of a universal service may do so only with written approval from the Commission.

(2) A decision to allow a specified provider to terminate the offering to the public of a universal service is a significant substantive or procedural decision that affects persons within the meaning of section 13 of the PUC Act[4].

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

PART 4

UNIVERSAL SERVICE FUNDING

Costing of universal service obligations

10. (1) Where a specified provider is unable to charge normal commercial rates with respect to a universal service for which it has been designated pursuant to section 8, it may seek to receive funding for the net costs of meeting the obligation concerned by submitting to the Commission a written request for such funding.

(2) A request under subsection (1) shall be accompanied by such supporting information, including with respect to such periods of time, as may be reasonably required by the Commission for the purposes of subsection (3).

(3) The Commission shall, on the basis of such information it considers sufficient to enable a determination under this subsection to be made, including any information supplied pursuant to subsection (2),

[3] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.
[4] 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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determine whether an obligation referred to in subsection (1) may represent an unfair burden on the specified provider concerned.

(4) Where the Commission determines that an obligation referred to in subsection (1) may represent an unfair burden it shall calculate the net costs of meeting the obligation, based on the net costs of doing so and taking into account any benefit which accrues to the specified provider as a result of its providing one or more universal services, calculated in accordance with the provisions of the Telecommunications Code.

(5) A specified provider referred to in subsection (1) shall provide such information as is reasonably required by the Commission for the purposes of subsection (4).

(6) Where the Commission determines that either there is no material net cost in meeting an obligation referred to in subsection (1) or that such net cost may not represent an unfair burden it shall notify the specified provider concerned of that determination, together with the reasons for the determination as soon as reasonably practicable after the determination is made.

(7) The accuracy of the accounts or other information, or both, that serve as the basis for the calculation of the net cost of an obligation may, at the discretion of the Commission, be audited or verified, as appropriate, by the Commission or by a body independent of the specified provider concerned and approved of by the Commission.

(8) The Commission shall make publicly available the results of the cost calculations and the conclusions of any audit or verification undertaken pursuant to this Regulation, except with respect to any information the disclosure of which is proscribed by section 44 of the PUC Act[5].

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

Establishing cost-sharing mechanism

11. (1) Where the Commission, on the basis of the net cost calculation referred to in section 10, finds that the net cost of meeting an obligation to provide a universal service is material and represents an unfair burden on a specified provider it shall apportion such net cost among service providers and, upon approval of the Minister, any one or more other providers of telecommunications services, or one or more users of such services.

(2) The Commission, in apportioning the net cost to which subsection (1) refers, shall establish a mechanism or process, which may include a universal service fund.

(3) If established by the Commission, a universal service fund may be—

(a) an actual fund, into which contributions made in accordance with section 12 shall be deposited and out of which payments made in accordance with section 13 shall be made; or

(b) an electronic clearing mechanism by which payments are made to apportion the net cost of the universal service obligation in accordance with subsection (1).

(4) The universal service fund may be administered by the Commission or, upon the delegation of the Commission, by a body independent from the providers of telecommunications services, which body shall be under the supervision of the Commission.

(5) Any apportionment by the Commission of the net cost of meeting a universal service obligation among service providers, other providers of telecommunications services and users, and the establishment and functioning of the mechanism or process established under subsection (2), shall respect the principles of

[5] 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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transparency, least market distortion, non-discrimination and proportionality in accordance with the principles set out in the Telecommunications Code.

(6) Any decision by the Commission to establish a universal service fund or other mechanism or process pursuant to this section 11, and to modify the principles on which contributions will be made to and payments will be made from such universal service fund or other mechanism or process, 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)

Contributions to cost-sharing mechanism

12. (1) If the Commission establishes a universal service fund or uses another mechanism or process to allocate the net cost of meeting a universal service obligation, it shall use a methodology specified in the Telecommunications Code to determine the amount of the contribution to be made by each provider of telecommunications service obligated to share such net cost.

(2) The Commission either shall notify each provider of telecommunications services that is required to share the net cost, to which subsection (1) refers, of its obligation to contribute to such cost, including the amount, manner and timing of payments to be made, or shall require that each such provider perform the calculation with respect to such net cost and inform the Commission thereof.

(3) A provider required to contribute an amount in accordance with this section shall pay that amount into the universal service fund, or through such other mechanism or process, at such time and in the manner specified by the Commission.

(4) Notwithstanding the principles set forth in section 11(5), the Commission may choose not to require contributions from providers of telecommunications services that have an audited national turnover less than such amount as may, from time to time, be specified by the Commission

Receipt of funds from cost-sharing mechanism

13. Once the Commission has established a mechanism or process for apportioning the net costs of meeting a universal service obligation, any specified provider may apply to receive funds therefrom to defray such net costs as it incurs in meeting such obligation.

Identification of universal service contributions

14. Any charges to providers of telecommunications services or end users arising from or related to the apportioning of the costs of providing universal services shall, as such providers determine, be unbundled and identified separately on invoices or bills for telecommunications services.

Transparency of cost-sharing mechanism

15. (1) The Commission shall, except for information the disclosure of which is proscribed by section 44 of the PUC Act[7], publish an annual report setting out the calculated net cost of universal service obligations, identify the contributions made by all the providers of telecommunications services involved and identify any benefits, including intangible benefits, that may have accrued to any provider of universal service.

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

(2) The Commission shall publish and make publicly available all information in relation to the principles used for the sharing of the net cost of the universal service obligations, including the details of the universal service fund or other mechanism or process used.

[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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Alternative means to fund universal service costs

16. Nothing in this Part requires that the Commission establish a universal service fund or any other mechanism or process or prevents any other sources of funding, including derived from Government subsidy or auction, from being made available to enable the provision of a universal service or to defray any provider's net costs of providing any universal service.

PART 5

PUBLIC TELECOMMUNICATIONS SERVICES

Service provider directory obligations

17. (1) Every service provider providing a public telephone service must provide—

(a) its own directory inquiry service or make available to its end users the directory inquiry service of the specified provider designated in section 5(1) based on an interconnection agreement or other commercially negotiated agreement between the two service providers; and

(b) an operator assisted information service that provides information about the service provider's service, including its rates, and that assists end users in making and completing calls.

(2) A service provider providing a public telephone service shall ensure that its subscribers—

(a) have the right, without any charge additional to the charge for the public telephone service, to have an entry in a telephone directory, as provided for in section 5(1)(a), and be listed in a directory inquiry service, as provided for in section 5(1)(b); and

(b) have an opportunity to refuse to have an entry in a telephone directory or a listing in a directory inquiry service or in any other listings that the service provider may provide.

(3) A service provider that assigns telephone numbers to subscribers shall provide, on a timely basis, to the specified provider designated under section 5(1) all information, in an agreed format and without charge, that is needed to maintain the record referred to in section 5(4)(a), to provide telephone directories and to provide directory inquiry services.

Emergency telecommunications

18. (1) A service provider providing a public telephone service shall ensure that end users are able to have access to emergency telecommunications, including the ability to call the emergency services free of charge, by using the Anguilla emergency call number "911" and any other national emergency call number that may be specified by the Commission.

(2) A service provider shall, as soon as practicable, make caller location information available to authorities handling emergencies, to the extent technically feasible, for all calls to the Anguilla emergency call number "911" and any national emergency call number that may be specified by the Commission.

Disabled users

19. The Commission may specify obligations applicable to service providers, after consultation with representatives of disabled users and the service providers, for the purpose of ensuring that disabled end users can enjoy access to and affordability of public telephone services, including access to directory inquiry, operator assisted information and emergency services, equivalent to that enjoyed by other end users.

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Quality of service

20. (1) A service provider shall, as the Commission may require, both provide to the Commission and publish adequate and current information concerning its performance in relation to the provision of its public telecommunications services.

(2) The information published pursuant to subsection (1) shall be based on the quality of service criteria and requirements set out in the Telecommunications Code.

(3) The Commission may set performance targets for service providers, after consultation with service providers, in respect of any public telecommunications services as the Commission deems appropriate from time to time.

(4) The Commission may arrange, or require a service provider to which this Regulation refers to arrange, an independent audit or review paid for by the service provider concerned, of the performance data supplied by that service provider to ensure that the service provider is providing public telecommunications services in accordance with any applicable requirements or performance targets.

(5) In the case of persistent failure by a service provider to meet requirements or performance targets established by the Commission pursuant to subsections (2) and (3), the Commission may issue directions to the service provider concerned for the purpose of ensuring compliance therewith.

Integrity of the network

21. (1) The Commission may specify the obligations of an operator of a public telecommunications network or a provider of a public telecommunications service to ensure the integrity of such network or the availability of such service and, in the event of emergency or catastrophe, or in cases of *force majeure*, to ensure the availability of public telecommunications services throughout Anguilla.

(2) A service provider providing a public telephone service shall take all reasonable steps to ensure uninterrupted access to emergency telecommunications services.

Statements

22. (1) A service provider shall establish rates and other terms and conditions for the provision of any additional services or equipment in such a way that the subscriber is not obliged to pay for services or equipment which are not necessary or not required for the service requested by him or her.

(2) A service provider shall comply with the requirements of the Telecommunications Code, including with respect to the preparation and delivery of statements, to enable subscribers to monitor charges and other terms and conditions applicable to services that they are provided and to avoid unwarranted disconnection of service.

PART 6

MISCELLANEOUS

Continuation of existing obligations

23. A provider of telecommunications services shall continue to comply with any obligations applicable to it on 23rd August 2004 relating to retail prices for the provision of a public telephone service.

Citation

24. These Regulations may be cited as the Universal Service and Public Telecommunications Regulations, Revised Regulations of Anguilla, T6-8.

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