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Decision No 142 /2011 on Issuance of Access Deficit Contribution Guidelines

Pursuant to the Telecommunications Regulatory Act issued by the Royal Decree No. 30/2002; and

The Executive Regulation of the Telecommunications Regulatory Act issued by Resolution No. 144/2008; and

The Royal Decree No. 20/2004 Issuing two Class I Licenses: the First for Oman Telecommunications Company for the provision of the Basic Fixed Public Telecommunications Services & the Second for Oman Mobile for the Provision of mobile telecommunications services; and

The Royal Decree No. 17/2005 issuing Class I License to the Omani Qatari Telecommunications Company for the provisions of Basic Mobile Public Telecommunications Services; and

The Royal Decree No. 34/2009 issuing Class I License to the Omani Qatari Telecommunications Company for establishing & operating a Fixed Public Telecommunications Services System; and

The Royal Decree No. 20/2011 issuing Class I License for Sama Telecommunications Company for establishing & operating an international Telecommunications Services System; and

The approval of the Telecommunications Regulatory Authority's Board of Directors at its meeting No. 4/2011 held on 3rd December 2011; and

Based on the exigencies of the public interest;

It is decided:

Article 1 The following guidelines shall be applicable with respect to the applications that are submitted by Oman Telecommunications Company to the TRA in relation to the Access Deficit Contribution.

Article 2 This Decision shall become operative from the date of its issuance.

Mohammed Bin Hamed Al-Rumhi
Chairman of Board of Directors

Issued on: 27th Muharram1433 A.H.
Corresponding to: 24th December 2011 A.D.

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Access Deficit Contribution Guidelines

Article 1:

In the application of these Guidelines, the terms and expressions used herein shall express the exact meaning exhibited in both Telecommunications Regulatory Authority & its Executive Regulation mentioned above & the meaning next to each one unless the text otherwise requires.

(i) **Access Deficit:** The difference between the costs of installing, maintaining and selling the fixed line access services of a licensee and the revenues the licensee generates from selling these services.

(iii) **Economic Profit:** profits generated from the difference between the revenues generated from access services and the costs of access services including the opportunity cost which is represented by weighted Average Cost of Capital (WACC).

(iii) **Economic loss:** The loss resulting from the difference between the revenues generated from access services and the costs of access services including the opportunity cost which is represented by weighted Average Cost of Capital (WACC).

(iv) **Excess/Positive Economic Profit:** Profit generated when the qualified licensee continues to earn Profits exceeding a reasonable return on services that are effectively bundled with the access line to the extent that fully covers the deficit.

(v) **Qualified Licensee:** A Class I fixed-line licensee providing fixed access services prior to 31 December 2008 at a regulated price who has demonstrated to TRA that its access service is provided below cost.

(vi) **Calendar Year:** The year that starts on 1st January and ends on 31st December of the same year.

Article 2: The ADC will be limited to the portion of the Access Deficit which the Qualified Licensee cannot fund through other internal sources of economic profit.

Article 3: The Qualified Licensee shall be entitled to file Applications for ADC for the period falling between the date of commercial operation of the second

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International Gateway Operator licensed by TRA and 31 December 2011. In all cases, applications for ADC should be filed not later than 30th September 2012.

Article 4: The Application for ADC shall include the followings:

- a) Complete documentation including Excel-based model to support all calculations for each calendar year and /or part thereof;
- b) Cost of Capital calculations duly supported by assumptions and input data.
- c) Audit Certificate by an independent external auditor. The auditor shall certify:
 - i. reasonability of methodology and assumptions used to work out the Access Deficit Net of Contribution,
 - ii. accuracy of revenue and cost calculations,
 - iii. reasonability of cost and revenue allocation methodology,
 - iv. reasonability of methodology, assumptions and the input used to estimates of the cost of capital.
- d) Demonstration that the access deficit net of contributions of excess profit from access dependent services is of a value less than zero. The calculation of this access deficit net of contribution (ADNC) is to follow the format as outlined in Schedule 1.

Article 5: The Qualified Licensee shall submit Application for ADC on the basis of a calendar year.

Article 6: The TRA shall examine the application for the ADC and then notify all concerned licensees of the deficit within 60 days of receipt of application. In case the TRA requests any additional data or clarifications, the 60 days period shall start from the receipt of the requested data.

Article 7: For the purpose of calculating the ADC rate per minute, total International inbound and outbound traffic on the public network shall be used as per schedule 2 of these guidelines.

Article 8: The licensees shall keep complete traffic data available to substantiate their claims. In case, any licensed operator with international gateway fails to submit its traffic data, TRA shall be entitled to assess the traffic based on Quarterly/ Annual traffic submissions or any other available source.

Article 9: The Qualified Licensee and the Licensees operating International Gateway exchange shall provide the following:

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- a) Month-wise traffic data (outbound/inbound minutes) within 120 days of notification of these guidelines.
- b) Any additional information required by TRA at any stage for this purpose.

Article 10: The ADC claims once agreed and adjusted by TRA shall be considered final and closed.

Article 11: The Licensees operating international gateways shall settle ADC dues payable to the Qualified Licensee based on the rate notified by the TRA within 60 days from the date of the ADC rate notification.

Article 12: In case of any dispute between the parties regarding the ADC charge, the disputing party may file its complaint to TRA under dispute resolution procedure within 30 days from TRA's notification of the ADC rate.

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Schedule 1

Calculation of Access Deficit Net of Contribution (ADNC)

The calculation shall be in the form of a table providing the following inputs:

- EBIT (A)
- Capital Employed (B)
- Weighted Average Cost of Capital - WACC (C)
- Economic profit / (loss) (D)

Where $D = A - (B * C)$ for each of the following service groups:

1. Exchange lines
2. Exchange line Broadband (e.g. ADSL)
3. National calls
4. International calls
5. Other calls
6. Other access dependent services (if any).

And Total ADNC = sum of all economic profit (loss) for the above components,

Where;

- EBIT is earnings before interest and tax
- ADNC, Access Deficit Net of Contribution is the sum of economic profit or loss of each of the service groups from 1-6 above.
- The ADNC must be less than zero or else the application would be invalid.
- The following notes apply in relation to the service groups 1-5 above:
 1. Free calls and value added services bundled with the access service by the Qualified Licensee shall be included,
 2. All broadband services provided over the exchange lines shall be included,
 3. All originated calling terminated in country (fixed to fixed as well as fixed to mobile)
 4. Qualified Licensee international termination inbounds and originated outbound.
 5. All other call types passing through qualified exchange lines, including interconnection
 6. Any reduction in the retail prices of the related services by the operator at its own commercial consideration will not be considered for access deficit contribution if that reduction is causing additional deficit.

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Schedule 2

Calculation of Access Deficit Net of Contribution (ADNC)/minute.

A: Qualified Licensee International Call minutes

B: Other International Gateway licensees international call minutes

C: Total International Call minutes (A+B)

D: Total ADNC

E: Total ADNC/ Total International Call minutes = (D/C)

Where:

- International calls include both inbound and outbound minutes
- ADNC as calculated in *Schedule 1*