

DOMESTIC LEASED CIRCUITS REGULATIONS, 2007

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DOMESTIC LEASED CIRCUITS REGULATIONS, 2007

In exercise of the powers conferred under section 36, read with sub-clauses (i), (ii), (iii), (iv), (v) and (vi) of clause (b) of sub-

section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely :

CHAPTER 1
PRELIMINARY

1. Short title and commencement :-

(1) These regulations may be called the Domestic Leased Circuits Regulations, 2007.

(2) They shall come into force on their publication in the Official Gazette.

2. Applicability :-

These regulations shall be applicable to every service provider who can access the subscribers directly for provision of Leased Circuits under the terms and conditions of its licence.

3. Definitions :-

In these regulations, unless the context otherwise requires,-

(a) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Act;

(c) "Domestic Leased Circuit" means a leased circuit to the premises of a subscriber when such premises are located within India;

(d) "Leased Circuit" means virtual private network using circuit or packet switched (Internet Protocol) technology apart from point to point non-switched physical connections or transmission bandwidth and to which the public network is not connected;

(e) "licence" means a licence granted or having effect as if granted under section 4 of the Indian Telegraph Act, 1885, (13 of 1885) and Indian Wireless Telegraphy Act, 1933 (17 of 1933);

(f) 'licensee' means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) for providing specified public telecommunication services;

(g) "Local Lead of Domestic Leased Circuit" means the Leased Circuit between the premises of a subscriber to the nearest exchange which includes Short Distance Charging Center, point of

interconnection and point of presence of the service provider from whom the subscriber obtains the Domestic Leased Circuit;

(h) "Long Distance Charging Area" means one of the several areas into which the country is divided and declared as such for the purpose of charging for trunk calls which generally is co-terminus with secondary switching area;

(i) "Prime Service Provider" means,-

(A) in case of Domestic Leased Circuit(s) or Local Lead of Domestic Leased Circuit, as the case may be, from two or more service providers in a virtual private network or Closed User Groups, the service provider who is having the agreement with the subscriber for providing such Domestic Leased Circuit(s);

(B) in case a subscriber procures Domestic Leased Circuit from two or more service providers for the purpose of its Close User Groups, all the service providers providing Domestic Leased Circuit to such Close User Groups and having agreement with such subscriber;

(j) "regulations" means the Domestic Leased Circuits Regulations, 2007;

(k) "Short Distance Charging Center" means one of the several areas into which a Long Distance Charging Area is divided and declared as such for the purpose of charging for trunk calls and within which the local call charges and local numbering scheme is applicable and such area coincide (except a few exceptions) with revenue tehsil or taluk in such areas;

(l) "subscriber" includes any subscriber or any person or legal entity, which subscribes to, or avails of, any service, being the Domestic Leased Circuit from a licensee;

(m) "service provider" means the Government as a service provider and includes a licensee;

(n) "specified service provider" means a service provider who has been allowed under the terms and conditions of its licence to access the subscribers directly for provision of Domestic Leased Circuits;

(o) all other words and expressions used in these regulations but not defined, and defined in the Act and the rules and other regulations made there under, shall have the meanings respectively assigned to them in the Act or the rules or other regulations, as the

case may be.

CHAPTER 2

PROCEDURE RELATING TO PROVISION OF DOMESTIC LEASED CIRCUITS OR LOCAL LEAD OF DOMESTIC LEASED CIRCUIT

4. Request for Provision of Domestic Leased Circuits or Local Lead of Domestic Leased Circuit :-

(1) Any specified service provider,-

(a) who has an obligation under a contract with its subscriber or has any other arrangement with its subscriber to provide Domestic Leased Circuits; and

(b) who does not have adequate Domestic Leased Circuits or resources for to provide the same under such contract or arrangement, may make a request in writing to any other specified service provider for providing Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be.

(2) Every service provider while making the request under sub-regulation (1) shall intimate, to other specified service provider , along with such request the following details relating to the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, to be acquired from it, namely :-

(a) specific locations, between which the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, is required;

(b) the number of circuits to be acquired;

(c) the period of lease of the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, to be acquired;

(d) technical information relating to Domestic Leased Circuits or Local Lead of Domestic Leased Circuit to be acquired (including its type, capacity , or bandwidth);

(e) other relevant details.

5. Obligation of the specified service provider, to whom request has been made under regulation 4, to provide Domestic Leased Circuits or Local Lead of Domestic Leased Circuit(s) :-

(1) The specified service provider to whom request has been made

under regulation 4 for provision of the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit(s), as the case may be, shall, within thirty days of receipt of such request, send to the specified service provider who made such request (hereafter referred to as the requesting specified service provider),-

(a) a confirmation of its ability to provide the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be;

(b) a demand note giving therein the relevant details (including charges and payment schedule), in case the other specified service provider to whom request has been made under regulation 4, confirms its ability to provide the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be;

(c) details of payment schedule for providing the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be;

(d) likely date of provisioning of the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, by the specified service provider.

(2) In case it is not feasible for a specified service provider, to whom request has been made under regulation 4, to provide the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, to the requesting specified service provider, due to reason of non-availability of capacity or technical non-feasibility, the specified service provider shall, within thirty days after the receipt of the request, intimate the same in writing indicating the reasons thereof to the requesting specified service provider.

6. Maintenance of records in certain cases :-

In case a specified service provider, to whom request has been made under regulation 4 to provide the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, is unable to provide the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, and intimates the reasons thereof to the requesting specified service provider, the service provider, to whom request has been made under regulation 4, shall, maintain record of each such case mentioning therein the reasons thereof and such records shall be maintained for all such cases for a period of one year beginning from the date of such

intimation.

CHAPTER 3

RATES FOR PROVISION OF DOMESTIC LEASED CIRCUITS OR LOCAL LEAD OF DOMESTIC LEASED CIRCUIT

7. Tariff for Domestic Leased Circuits or Local Lead of Domestic Leased Circuit :-

(1) The rates for the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, provided by a specified service provider to another specified service provider under these regulations other than those cases falling under sub-regulation (2) and regulation 8 shall be such as specified under Schedule IV to the Telecommunication Tariff Order 1999, or, as may be notified by the Authority under sub-section (2) of section 11 of the Act, as the case may be.

(2) In case the rates for the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit as referred to in sub-regulation (1) have not been specified under the Schedule IV to the Telecommunication Tariff Order 1999, or, notified by the Authority under sub-section (2) of section 11 of the Act, the rates in such a case for the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit provided by a specified service provider to another specified service provider under these regulations shall be such as may be mutually agreed upon between such service providers.

8. Provision for Domestic Leased Circuits or Local Lead of Domestic Leased Circuit on "Rent and Guarantee Terms" or "Special Construction basis" or "Contribution basis in certain cases :-

(1) In case, the specified service provider, to whom request has been made under regulation 4,-

(a) is unable to provide the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, to the requesting specified service provider who made such request, due to reason of non-availability of capacity or technical non-feasibility;

(b) has intimated to the requesting specified service provider, the reasons thereof under sub-regulation (2) of regulation 5, the specified service provider, to whom request has been made under regulation 4, shall give an option to the requesting specified service provider to acquire the Domestic Leased Circuits or Local Lead of

Domestic Leased Circuit, as the case may be, on "Rent and Guarantee Terms" or "Special Construction basis" or "Contribution basis" as may be offered by it to the requesting specified service provider.

(2) The specified service provider, to whom the request has been made, under regulation 4 shall,-

(a) on receipt of confirmation from the requesting specified service provider, to whom such option had been given under sub-regulation (1), for providing the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, on "Rent and Guarantee Terms" or "Special Construction basis" or "Contribution basis", as the case may be;

(b) on receipt of requisite payment from the requesting specified service provider,

provide the requesting specified service provider, the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, on "Rent and Guarantee Terms" or "Special Construction basis" or "Contribution basis" as may be agreed upon between them.

(3) Nothing contained in the Schedule IV to the Telecommunication Tariff Order 1999 shall apply to the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, provided on "Rent and Guarantee Terms" or "Special Construction basis" or "Contribution basis" as may be agreed upon between them under sub-regulation (2).

CHAPTER 4

SECURITY RELATING TO DOMESTIC LEASED CIRCUITS OR LOCAL LEAD OF DOMESTIC LEASED CIRCUIT

9. Security and monitoring arrangements (including lawful interception) in relation to Domestic Leased Circuits :-

(1) A specified service provider, who owns the resources and provides the Domestic Leased Circuits to the subscriber, shall, without prejudice to any other law for the time being in force and the terms and conditions of its licence or any other instructions issued by the Government or any of its authorities or agencies or any liability of such subscriber,--

(a) be responsible for bona fide use of its Domestic Leased Circuits so provided and be responsible for any misuse thereof;

(b) be responsible for security and monitoring arrangements for Domestic Leased Circuits (including lawful interception) so provided to the subscriber.

(2) A Prime Service Provider, who --

(a) builds up the end-to-end Domestic Leased Circuits or virtual private network or Closed User Group,

(b) utilises the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, of one or more other specified service providers for the purpose of providing the Domestic Leased Circuits to the subscriber, shall, without prejudice to any other law for the time being in force and the terms and conditions of its licence or any other instructions issued by the Government or any of its authorities or agencies or liability of such one or more other specified service providers, -

(i) be responsible for bona fide use of its Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, so provided and be responsible for any misuse thereof;

(ii) be responsible for security and monitoring arrangements for Domestic Leased Circuits (including lawful interception).

(3) In case a subscriber avails resources from two or more specified service providers to build-up a leased circuit or virtual private network or Closed User Group, in such a case, all such two or more specified service providers having agreements with such subscriber, shall be the Prime Service Providers, and, without prejudice to any other law for the time being in force and the terms and conditions of the licence of such service providers or any other instructions issued by the Government or any of its authorities or agencies or any liability of such subscriber,-

(a) be severally and jointly responsible for bona fide use of their Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, and be severally and jointly responsible for any misuse thereof;

(b) be severally and jointly responsible for security and monitoring arrangements for Domestic Leased Circuits (including lawful interception) provided to such subscribers.

CHAPTER 5

MISCELLANEOUS

10. These regulations not to apply in certain cases :-

Nothing contained in these regulations shall apply to any -

(a) matter or issue for which any proceedings, before any court or tribunal or under the Consumer Protection Act, 1986 (68 of 1986) or any other law for the time being in force, are pending; or

(b) matter or issue for which a decree, award or an order has already been passed by any competent court or tribunal or authority or forum or commission, as the case may be.

(c) agreement, relating to provision of the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, entered before commencement of these regulations.

11. Application of other laws not barred :-

The provisions of these regulations shall be in addition to, and not in derogation of, any other law for the time being in force.

12. Inspection and Auditing :-

(1) The Authority may, if it considers it expedient so to do, and to ensure compliance of the provisions of these regulations, by order in writing, direct any of its officers or employees or through one or more persons appointed by the Authority to inspect any the records maintained under regulation 6, and submit to the Authority a report in respect of such inspection.

(2) The Authority, if it considers it expedient so to do, may require any specified service provider to whom a request has been made under regulation 4, to,-

(a) get the records maintained under regulation 6 audited through one or more officers or persons appointed by the Authority and submit the report in respect of such audit to the Authority;

(b) get the records maintained under regulation 6 audited through an independent agency as may be specified by the Authority and submit the report in respect of such audit to the Authority.

(3) The cost of inspection by one or more persons appointed by the Authority under sub-regulation (1) or the audit under clause (b) of sub-regulation (2) shall be borne by the concerned specified service provider

(4) The Authority may, by order or direction, from time to time, intervene, for the purpose of protecting the interest of the

subscribers or specified service providers or for monitoring and ensuring provision of the Domestic Leased Circuits or Local Lead of Domestic Leased Circuit, as the case may be, under these regulations so as to promote and ensure orderly growth of the telecom sector

Note.-The Explanatory Memorandum explains the objects and reasons of the Domestic Leased Circuits Regulations, 2007.