



Response to
LIME Request for Reconsideration of RIO6
Determination

1. Introduction

Digicel welcomes the opportunity to provide the OUR with its response to the request for Reconsideration filed by LIME in relation to the RIO6 Determination issued on 24 December 2012.

The succeeding comments are not exhaustive and Digicel's decision not to respond to any particular issue does not necessarily represent agreement, in whole or in part with the stated party's position on these issues; nor does any position taken by Digicel in this document mean a waiver of any sort of Digicel's rights in any way. Digicel expressly reserves all its rights. Any questions or remarks that may arise as a result of these comments by Digicel may be addressed to:

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2. Response to Lime's request for reconsideration

Effective Date

Digicel share LIME's view that an immediate implementation of the determination is unreasonable. In the telecom sector rate changes are for logistic and practical reasons always sought to be done at the first day of a billing cycle, i.e. the first calendar day of a month. In this instance a more appropriate date would have been January 1, 2013.

Digicel's view is that determinations that address rate changes should as a general principle be implemented as of the first calendar day of a month.

Determination 15

Digicel agrees with the OUR determination in principle but think it should be clarified to avoid any uncertainty.

The way Digicel understands the OUR position and determination is that unless the interconnecting operator has any technical issues itself which would prevent it from directly interconnect with LIME's mobile network the only charges payable for handing over a call to LIME's fixed network for termination in LIME's mobile network should be the mobile termination charge, i.e. no transit charge would be payable in these circumstances. In order to make this clear the determination ought to be clarified to read the following:

"Unless there are technical reasons on the part of the interconnecting operator that prevents it from obtaining direct interconnection with LIME's mobile switch, there should be no transit or other cost of connection for the interconnecting operator other than the tariffs listed in the Tariff Schedule for mobile termination. If applicable, the transit charge for any call transiting LIME's fixed network should be same independently where the call has originated"

It is very telling that to date no carrier in Jamaica has any direct interconnection with LIME's mobile network. As the OUR should know, this has been an ongoing discussion with LIME, not only from Digicel, but apparently also from all other carriers in Jamaica based on the various submissions these carriers have made over the years.

LIME's contention that they are willing and able to offer direct interconnect to its mobile network is disingenuous since they in offers made to date have structured these offers to result in an equal or higher cost for the carrier requesting direct interconnect than if the transit arrangement were to continue.

Digicel has noted that LIME seems to have two different transit rates in its tariff schedule; 1) one applicable if the call it transits to its mobile network (or any other mobile and fixed network) which has originally originated abroad and 2) one transit rate applicable if the call has originated in Jamaica. Digicel has seen no such approval by the OUR, which is understandable and in line with the OUR's position on termination rates, i.e. the origin of a call is irrelevant since the network elements employed are the same once the call is handed over from a domestic operator. Hence Digicel would recommend that Determination 15 is clarified so that that the transit rates applicable when transiting LIME's fixed network are one and the same independently where the call has originated (see suggested text above).

Determination 39

As a general remark Digicel reiterates its request that the OUR clarifies that the charge LIME has in the "Incoming International Call Termination Service" relating to transit over LIME's fixed network to a Third Party Telecom Provider (fixed and mobile)¹, where LIME has defined its mobile network as a "Third Party Telecom Provider (mobile)", is not approved and should as a maximum be the same as the approved rate for Transit Services.

a) *The absence of an Interconnect Specific Charge*

Digicel agrees with the OUR determination. However Digicel is thankful that LIME now has clarified the argument why this charge has been in the Tariff Schedule since despite numerous requests to LIME no answer or explanation has been given before. This is a charge that initially was included in all LIME's interconnection agreements with Digicel across the region but when these agreements have been renegotiated this charge has disappeared². This was initially by agreement between the parties and where rates subsequently have been set by a regulator, an exclusion that has been confirmed in their determinations.

b) *Use of RIO 5A Rates instead of RIO 5A1 Rates in the absence of acceptable benchmarks*

Although Digicel is of the view that the rates approved by the OUR in this RIO 6 determination are excessive and in some instances not in line with the Act as amended, Digicel agrees with the Determination of the OUR that it should not in any event be rates that exceeds what previously has been approved by the OUR in RIO 5A. In fact the OUR does have the power under the amended Act to set interim termination rates which in Digicel's view would be the proper approach awaiting the introduction of pure LRIC termination and transit rates in LIME's fixed network

¹ Page 88 in the OUR Determination, LIME has added a flat per minute charge of J\$0.872/min which is significantly higher than the transit rate applied for calls originating in Jamaica transited to a Third Party Telecom Provider (fixed and mobile)

² This refers to inter alia Cayman Islands, St Vincent & the Grenadines, St Lucia, Grenada, Dominica, St Kitts & Nevis.