
Office of Utilities Regulation

CLARIFICATION AND MODIFICATION OF THE DECISION ON REGULATORY ACCOUNTING RULES (TELECOMMUNICATIONS)

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West Indies

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OFFICE OF UTILITIES REGULATION

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DOCUMENT TITLE: Clarification and Modification of Decision on “Regulatory Accounting Rule (Telecommunications)”																	
<p>1. PURPOSE OF DOCUMENT</p> <p>This document provides the Office’s Clarification and Modification of its Decision on “Regulatory Accounting Rule (Telecommunications), Document No: TEL 2006/04 Vol. 3 May 24, 2006”.</p>																	
<p>RECORD OF REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">Revision Number</th> <th style="width: 60%;">Description</th> <th style="width: 20%;">Date</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Clarification and Modification</td> <td style="text-align: center;">15/04/08</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>			Revision Number	Description	Date	1	Clarification and Modification	15/04/08									
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<p>APPROVAL</p> <p>This document is approved by the Office of Utilities Regulation and the Decisions therein become effective on April 17, 2008.</p> <p>On behalf of the Office:</p> <div style="text-align: center; margin-top: 20px;">  </div> <p>.....</p> <p>J Paul Morgan Director General</p> <p>15 April 2008 Date</p>																	

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OFFICE STATEMENT

Pursuant to Section 30 of the Telecommunications Act 2000 (hereinafter the Act) which makes it obligatory for each dominant public voice carrier to "...keep separate accounts in such form and containing such particulars as will enable the Office to assess whether that carrier provides interconnection services in accordance with the principles specified..." and a more general provision set out at section 4(5) which provides for the Office to "...make rules, subject to affirmative resolution, prescribing the system of regulatory accounts to be kept by a dominant carrier or service provider", the Office issued its Determination on Regulatory Accounting Rules (Telecommunications): Document No: TEL 2006/04 Vol. 3 May 24, 2006. This Document offers clarifications and modifications to the aforementioned document.

Clarification and Modification of the Regulatory Accounting Rules (Telecommunication)

The discussions with potential auditors indicated that the wording of rule G (1)(iv) requires auditors to determine the level of detail to be disclosed and to give some level of assurance of the accuracy and adequacy of the disclosure in order for the Office to carry out its functions and duties. It is our understanding that this could serve to elevate the audit cost to levels which are disproportionate to the benefits expected from the audit. To correct this imbalance the following changes (in italics) will be effected to the subsection of the Auditing Guidelines titled G (1)(iv):

Auditing Guidelines for Regulatory Accounts

G.1 Aims of Auditing

The words “in carrying out its regulatory functions and duties pursuant to relevant legislation” shall be removed and G (1)(iv) will read:

(iv) to determine whether the Regulatory Financial Statements and other information produced and supplied to the Office and the public at large by a carrier and or service provider can be relied upon by the Office. *That is, there are no material errors or misstatements.*

Complementing this amendment, Rule 3 of the Telecommunications Regulatory Accounting Rules shall be amended to reflect the following:

Regulatory Financial Statements shall be in sufficient detail and contain such particulars which in the opinion of the Office will *assist in enabling* it to:-

- a) identify unfair cross-subsidies;
- b) ensure non-discrimination in interconnection and other charges;
- c) ensure that the charges for interconnection and specified service and facilities are reasonably and transparently derived; and
- d) implement, enforce, and monitor price caps or any other formal price control mechanism.

REGULATORY ACCOUNTING RULES (Rule No. 1 of 2008)

Objectives of the Telecommunications Act, 2000

1.0 The Telecommunications Act 2000 (the “Act”) is the primary legislation governing Jamaica's telecoms sector. The broad objectives of this Act are:-

- (i) to promote and protect the interests of the public;
- (ii) to promote universal access to telecommunications services for all persons in Jamaica, to the extent that it is reasonably practicable to provide such access;
- (iii) to facilitate the achievement of (i) and (ii) in a manner consistent with Jamaica's international commitments in relation to the liberalization of telecommunications; and
- (iv) to encourage economically efficient investment in the sector.

1.1 Under the Act the Office has been assigned certain duties and functions which include:-

- regulation of specified services and facilities;
- promoting the interests of customers, while having due regard to the interests of carriers and service providers ; and
- promoting competition among carriers and service providers.

Obligations to Grant Interconnection

1.2 The Act also lays down a number of principles to be observed in interconnection viz: any-to-any, end-to-end operability, and equal responsibility.

- (i) Any-to-any connectivity enables customers of each public voice network to complete calls to customers of another or to obtain services from such other network.
- (ii) End-to-end operability requires that interconnection should be across interfaces with sufficient functionality to ensure that high quality services can be provided to consumers even where the call recipient and the calling customer are on different networks; and
- (ii) Equal Responsibility requires public voice carriers to bear equal responsibility for ensuring that networks are interconnected and to do so as quickly as is reasonably practicable.

Interconnection by Dominant Public Voice Carrier

- 1.3 Entrants to the telecommunications industry who have to pay a significant portion of their revenues in interconnection charges are vulnerable to abuse of dominance. A dominant carrier or service provider has the ability to distort competition in a relevant market. This is especially so in telecommunications, in which a dominant carrier or service provider is typically both a supplier of critical inputs (interconnection and wholesale services) to downstream service providers; and a competitor against these service providers in downstream retail markets.
- 1.4 For these reasons, the Act provides some general underlying principles regarding interconnection services supplied by dominant public voice carriers. These are listed below (Section 30):-
- terms and conditions of interconnection shall be
 - on a non-discriminatory basis;
 - reasonable and transparent, including such terms and conditions as relate to technical specifications and the number and locations of points of interconnection; and
 - charges for interconnection shall be cost oriented and guided by the principles set out in section 33 of the Act;
 - no unfair arrangements for cross-subsidies shall be made; and
 - where technically and economically reasonable interconnection services shall be so diversified as to render it unnecessary for an interconnection seeker to pay unreasonably for network components or facilities it does not require.

Accounting for Regulatory Purposes

- 1.5 Under Section 30(2) a dominant public voice carrier is obligated to "...keep separate accounts in such form and containing such particulars as will enable the Office to assess whether that carrier provides interconnection services in accordance with the principles..." set out at 30(1) of the Act.
- 1.6 Section 4(5) of the Act provides for the Office to make rules prescribing the system of regulatory accounts to be kept by a dominant carrier or service provider in relation to specified services. Section 2 of the Act defines "specified service" as "a telecommunications service or such other service as may be prescribed." A "telecommunications service" is defined as "a service provided by means of a telecommunications network to any person for the transmission of intelligence from, to or within Jamaica without change in the content or form and includes any two-way or interactive service that is provided in connection with a broadcasting

service or subscriber television service.” Both voice and data services are defined as specified services.

- 1.7 Under section 35 of the Act, the Office, after consultation with the Fair Trading Commission and such participants in the telecommunications industry as it things fit, may make rules (which are classified as "competitive safeguard rules") subject to affirmative resolution. These include inter alia:-
- “(a) separation of accounts;
 - (b) keeping of records;
 - (c) provisions to ensure that information supplied by other carriers for the purpose of facilitating interconnection is not used for any uncompetitive purpose”
- 1.8 Section 71 of the Act grants the Office the powers to make rules relating to any matter that it considers necessary or desirable for the effective performance of its functions under this Act.

Definitions:-

Except as is in hereinafter provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meanings as it has in the “Act”.

“Act” means the Telecommunications Act 2000.

“Applicable Accounting Documents” means the document having that title that is approved by the Office and containing descriptions of the:-

- (i) Regulatory Principles,
- (ii) Attribution Methods,
- (iii) Transfer Charging System,
- (iv) Accounting Policies,
- (v) Costing Methodology(ies),

used in the preparation of each Regulatory Financial Statement and supporting notes to each statement and where there is inconsistency between the requirements of one or more of the Applicable Accounting Documents, the documents shall have priority in the order listed above.

“Accounting Policies” means the manner in which the Current Cost Accounting principles and policies applied by the carrier and or service provider in the preparation of its audited statutory accounts and reports, where relevant and appropriate, are applied in the preparation of each Regulatory Financial Statement and supporting notes.

“Attribution Methods” means the practices used to attribute revenue (including appropriate transfer charges), costs (including appropriate transfer charges), assets and liabilities to a business and, insofar as that business has been disaggregated in terms of service categories of that business, to each of the service category of that business as determined by the Office.

“Applicable Auditing Standards” Means standards of auditing specified by the Office as part of its regulatory auditing guidelines.

“Auditor” means persons so designated and whose appointment, and conduct, among other things are in accordance with the regulatory auditing guidelines specified by the Office

“Businesses” means the businesses (including Interconnect Business) comprising revenues, costs and assets as determined by the Office

“Charges” means the amounts offered or charged by the carrier and or service provider to un-related carriers and service providers for specified services and facilities.

“Cost Methodology(ies)” means the principles, methods and modelling process applied when preparing Regulatory Financial Statements and supporting notes.

“Costing Model: Relationship and Parameters” means the document with that title (along with the Detailed Attribution Methods and Detailed Valuation Methodology) containing details of the systems and processes for deriving or calculating the costs, revenues, assets and liabilities which are used by the dominant carrier and or service provider in addition to the descriptions in the Applicable Accounting Documents, to prepare the Financial Statements and supporting notes.

“Current Cost Accounting” means the principles and methods used for purposes of adjusting asset values to take account of the erosion in value caused by general inflation and changes in asset values.

“Detailed Attribution Methods” means the document with that title (along with the Detailed Valuation Methodology and Costing Model: Relationship and Parameters) containing details of the systems and processes for deriving or calculating the costs, revenues, assets and liabilities which are used by the carrier and or service provider in addition to the descriptions in the Applicable Accounting Documents, to prepare each Regulatory Financial Statements and supporting notes.

“Detailed Asset Valuation Methodology” means the document with that title which is used (along with the Detailed Attribution Methods and the Costing Methodologies: Relationship and Parameters) containing details of the systems and processes for deriving or calculating the cost, revenues, assets and liabilities which are used by the carrier and or dominant service provider, in addition to the descriptions in the Applicable Accounting Documents, to prepare each Regulatory Financial Statements and supporting notes.

“Determination” means determination, decision, directives, instructions, consents, specification and guidelines issued by the Office on matters relating to its regulatory duties, obligations and responsibilities under the Act.

“Dominant Carrier” means a carrier that holds a dominant position in the relevant telecommunications market in Jamaica within the meaning of Section 19 of the Fair Competition Act.

“Dominant Service Provider” means a service provider that holds a dominant position in the relevant telecommunications market in Jamaica within the meaning of Section 19 of the Fair Competition Act.

“Documents” include the Applicable Accounting Documents, Detailed Attribution Methods, and Detailed Valuation Methods.

“Financial Period” means a financial year in respect of which statutory accounts and reports are required to be prepared and audited in accordance with the provisions of the Companies Act.

“Information” includes notes, accounts, estimates and returns.

“Interested Parties” mean those persons, if any, carrier and or service provider, with whom in any particular case, the Office is required by law or considers it appropriate to consult.

“Interconnect Business” means any business which includes the revenues, costs and assets and liabilities derived from or used in activities related to the provision of interconnection taken together.

“Method” means to obtain record or hold data or information or to carry out any operation or set of operations on the data or information, including:-

- (i) organization, storage, adaptation, or alteration of the data or information;
- (ii) retrieval, consultation or use of the data or information;
- (iii) disclosure of the data or information by transmission, dissemination, or otherwise making available; or
- (iv) alignment, combination, blocking, erasing or destruction of the data or information.

“Regulatory Financial Statements” mean:-

- a) statement of profit and loss on a current cost accounting basis for each business;
- b) a statement of mean capital employed on a current cost accounting basis for each business;
- c) statements of cost on a current cost basis (if required by the Office);
- d) statements of cost on an incremental cost basis (if required by the Office)
- e) a statement reconciling the aggregate turnover, operating profit and mean capital employed of all the businesses and the turnover, operating profit and capital employed of the carrier and or service provider’s audited statutory Report and Accounts; and
- f) any additional Regulatory Financial Statements, methods, principles, methodologies, supporting notes and documents required by the Office.

“Report of the Auditors” means a written statement or statements under the signature of a qualified auditing firm stating whether in their opinion the Regulatory Financial Statements for each business, and where applicable the service categories making up that business:-

- (a) is prepared in accordance with the form and content specified by the Office,
- (b) in accordance with the Applicable Accounting Documents and reconciles to the Annual statutory Report and accounts of the carrier and or service provider; and
- (c) “fairly presents in accordance with the Applicable Accounting Documents” or “properly presents in accordance with the Applicable Accounting Documents” (or whichever standard of auditing the Office deems to be applicable at a particular time period) the Regulatory Financial Statements and supporting notes of each business and, where applicable, the service categories making up that business.

“Regulatory Accounting” means a regulatory method used for the preparation of Regulatory Financial Statements and information including notes to each Regulatory Financial Statements for different businesses run by the same company or group of companies, so that the costs, revenues, assets, liabilities associated with each business and where applicable the service categories of that business (and transfer charges between them) can be appropriately and transparently identified and properly allocated.

“Regulatory Accounting Principles” means the general principles determined by the Office to be used by the carrier and or service provider in preparation of each Regulatory Financial Statements “Service Categories” means the specified services comprising each Businesses

“Statutory Report and Accounts” means reports and accounts prepared and audited in accordance with the requirements of the Companies Act

“Service Categories” means the specified services and facilities making up each business including the interconnect business.

“Transfer Charge” means the charge (and other terms and conditions) for any service which the carrier and or service provider provides to itself or to any member of that carrier and or service provider’s Group for the use or provision of a service.

“Transfer Charging System” means the system which enables a business to use a service or good from another business and to account for it as though it had purchased that service or good.

Telecommunications Regulatory Accounting Rules

1. A dominant carrier and or dominant service provider shall:-
 - a) establish,
 - b) prepare;
 - c) procure an Auditor's Report, and
 - d) publishin respect of each financial period(s) Regulatory Financial Statements on a Current Cost Accounting (CCA) basis for each business and, insofar as each business has been disaggregated in terms of service categories of the business, specified regulatory accounting information (including cost) for each of the service categories making up that business.

2. For the purposes of paragraph 1, a carrier and or service provider shall, at all times, establish and maintain adequate accounting and reporting processes and methods to ensure compliance with the rules herein and any determination(s) including amendments to previous determinations which the Office may issue from time to time in relation to:-
 - (i) the degree of disaggregation of a carrier and or service provider's activities into various businesses and the disaggregation of each business into service categories;
 - (ii) the definitions of each business and where necessary the service categories making up that business;
 - (iii) form and content of each Regulatory Financial Statement;
 - (iv) the frequency, standard, and scope of auditing, appointment of auditors and, the nature of the auditor's report, with respect to each of the Regulatory Financial Statement;
 - (v) publication of Regulatory Financial Statements and supporting notes and documents;
 - (vi) current cost accounting principles and methodologies used in the preparation of each Regulatory Financial Statement including supporting notes and documents.

3. Regulatory Financial Statements shall be in sufficient detail and contain such particulars which in the opinion of the Office will *assist in enabling* it to:-
 - a) identify unfair cross-subsidies;
 - b) ensure non-discrimination in interconnection and other charges;
 - c) ensure that the charges for interconnection and specified service and facilities are reasonably and transparently derived; and
 - d) implement, enforce, and monitor price caps or any other formal price control mechanism.

4. The Office shall require a carrier and or service provider to prepare for each financial period any or all of the following Regulatory Financial Statements:-
 - a) statement of profit and loss on a current cost accounting basis for each business;
 - b) statement of mean capital employed on a current cost accounting basis for each business;
 - c) statements of cost on a current cost basis (if required by the Office);
 - d) statement of costs on an incremental cost basis (if required by the Office);
 - e) statement reconciling each Regulatory Financial Statement with that carrier and or service provider's audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - f) any other Regulatory Financial Statements, supporting notes, accounting principles, methodologies and documents used in the preparation of each Regulatory Financial Statement.
5. Each Regulatory Financial Statement and supporting notes shall be prepared in strict accordance with the "Applicable Accounting Documents" and these "Accounting Documents" shall include:-
 - a) full definitions of each business and where applicable the service categories making up that business ;
 - b) the general principles used in the preparation of Regulatory Financial Statements and supporting notes, the "Regulatory Accounting Principles";
 - c) an explanation of the methods used to allocate revenue, costs including transfer charges, assets and liabilities and capital employed in each business and, insofar as each business has been disaggregated in terms of service categories of the business, each of the service categories making up that business, the "Attribution Methods";
 - d) an explanation of how the charges for Interconnect Business to its own downstream retail services for use of the networks are derived, the "Transfer Charging System";
 - e) a description of the current cost accounting policies used in the preparation of the Regulatory Financial Statements, the "Accounting Policies";
 - f) any other principles and or methodologies including documents which the Office may, from time to time, stipulate by way of determination such as Detailed Attribution Method, Detailed Asset Valuation Method, and Costing Methodologies: Relationship and Parameters.
6. Where there is inconsistency between all or some of the "Applicable Accounting Documents" the following order of priority shall be followed by

- the carrier and or service provider in preparing each Regulatory Financial Statement and supporting notes:-
- a) Regulatory Accounting Principles;
 - b) Attribution Methods;
 - c) Transfer Charging System;
 - d) Accounting Policies; and
 - e) any other principles and or methodologies, information which the Office may from time to time require and set out in a determination.
7. A carrier and or service provider subject to the rules herein shall ensure that for each financial period the Applicable Accounting Documents are applied in a consistent manner and give full and complete effect and recognition to any determinations made by the Office. Such recognition include amendments to the Applicable Accounting Documents, form and content of Regulatory Financial Statement, Applicable Auditing Standard and any of the items covered in paragraph 2 above.
8. It is the duty and responsibility of the carrier and or service provider to ensure that each Regulatory Financial Statement includes:
- a) statement of profit and loss on a current cost accounting basis for each business;
 - b) statement of mean capital employed on a current cost accounting basis for each business;
 - c) statements of cost on a current cost basis (if required by the Office);
 - d) statement of costs on an incremental cost basis (if required by the Office);
 - e) statement reconciling each Regulatory Financial Statement with that carrier's and or service provider's audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - f) any other Regulatory Financial Statements, supporting notes, principles and methodologies as well as documents used in the preparation of each Regulatory Financial Statement.
9. The Regulatory Financial Statements prepared and published by the carrier and or service provider shall be accompanied by a Statement of Responsibility over the signature of the carrier and or service provider's senior officer stating that the Regulatory Financial Statements for the financial period and for the preceding financial period and for any period requested by the Office have been prepared in strict accordance with the "Applicable Accounting Documents".

10. The Office may either on its own initiative and or at the request of an interested party, direct a carrier and or service provider to amend, modify, or change any of the following:
- a) the definition of each business in terms of the revenues, costs, liabilities and assets comprised in it;
 - b) the definition of the service categories making up each business in terms of the revenues, costs, liabilities and assets comprised in it;
 - c) the number of businesses and service categories making up each business;
 - d) the form and content of each Regulatory Financial Statement including:
 - i) statement of profit and loss for each business;
 - ii) statement of current cost mean capital employed for each business;
 - iii) statements of cost on a current cost basis (if required by the Office);
 - iv) statement of costs on an incremental cost basis (if required by the Office);
 - v) statement reconciling each Regulatory Financial Statement with that carrier and or service provider's audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - vi) any other Regulatory Financial Statements, supporting notes, principles, methodologies and documents used in the preparation of each Regulatory Financial Statement;
 - vii) the Applicable Accounting Documents.
11. Any request to amend any of the items contained in paragraph 10 above shall be to ensure that they are consistent with, and give full and complete effect to:
- i) written undertakings given by the carrier and or service provider to the Office following investigations into possible contravention by that carrier and or that service provider of any of the terms of its licence, the rules herein or the Act; and
 - ii) determinations made by the Office from time to time in pursuant to its functions and duties under the Act.

and such request to amend shall be-

- (a) in writing, and
- (b) set out the reasons for the amendments

12. In considering a written request to amend, modify, or change any of the items contained in paragraph 10 above the Office shall:
- (i) make copies of the written request available to interested parties;

- (ii) invite submissions from interested parties on the request for amendment; and
 - (iii) have regard to any comments made by interested parties.
13. A carrier and/or service provider shall comply in full with any determination of the Office requiring it to amend, modify, or change any or all of the following:
- a) the composition of each business in terms of any or all revenues, costs, assets and liabilities;
 - b) disaggregate any business to create one or more additional businesses or aggregate businesses to create fewer businesses or one business
 - c) the form and content of each Regulatory Financial Statement and supporting notes;
 - d) the “Accounting Documents”;
 - e) the Applicable Auditing Standard;
- and such determination shall be in writing and shall include the following:
- (i) reasons for the amendments, modifications or change;
 - (ii) time period in which the carrier and or service provider is required to take action to comply with item (i); and
 - (iii) the specific action to be taken by the carrier and or service provider in relation to 10(a) through to 10(d).
14. A carrier and or service provider shall procure in respect of each Regulatory Financial Statement for each Business and where applicable the disaggregated service categories making up that business an independent audit report (“Auditor Report”) in which the auditor shall state whether in his or her opinion each Regulatory Financial Statement and supporting notes and documents comply with the requirements of the Applicable Accounting Documents and any amendments made thereof.
15. The carrier and or service provider shall use its best endeavors to procure from the Auditor any further explanation and clarification of the reports required under paragraph 14 and any other information in respect of the matters which are the subject of the auditor’s report as may be required by the Office from time to time.
16. The Office shall prescribe guidelines (hereinafter referred to as “Auditing Guidelines”) relating to the auditing of each Regulatory Financial Statement and supporting notes to such statements and the carrier and or service provider shall comply in full with such guidelines and any

amendments made by the Office from time to time. These guidelines shall specify:-

- a) aims of auditing
 - b) procedure for the appointment of auditors;
 - c) the administration of each auditing exercise;
 - d) the nature of the Auditor's Report including the Applicable Auditing Standards;
 - e) audit conduct;
17. A carrier and or service provider shall publish for each financial period, the comparative data for the preceding financial period and within the time table set by the Office:-
- i) statement of profit and loss on a current cost accounting basis for each business;
 - ii) statement of mean capital employed on a current cost accounting basis for each business and, insofar as each business has been disaggregated in terms of service categories of the business, each of the service categories making up that business;
 - iii) statements of cost on a current cost basis (if required by the Office);
 - iv) statement of costs on an incremental cost basis (if required by the Office);
 - v) statement reconciling each Regulatory Financial Statement with that carrier and or service provider's audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - vi) any other Regulatory Financial Statements, supporting notes, principles, methodologies and documents used in the preparation of each Regulatory Financial Statement.
18. A carrier and or service provider is deemed to comply with paragraph 17 by delivering, to the Office, hard copies of all the items listed at 17 the Auditor's reports, a statement of responsibility over the signature of the carrier and or service provider's senior officer and at the same time, posting the said on its web site.
19. A carrier and or service provider shall provide hard copies, within a reasonable time, of any of the items contained in paragraph 17 above to any person who may, after they have been published request them, and who pays the direct costs incurred by the carrier and or service provider in providing them.
20. A carrier and or service provider shall retain for (a minimum of) seven (7) years, all raw data, financial and other statements, and Regulatory

Accounting reports in a standard electronic format. Also, electronic copies of all principles, methodologies and other documents used in the preparation of each Regulatory Financial Statement shall be maintained for seven (7) years.

21. Exemption Rules

- i) A dominant carrier or service provider may request in writing that the Office exempt it from compliance (either in part or in whole), with these rules.
- ii) The request must contain detailed reasons indicating the carrier's or service provider's inability to comply with the rules, either in part or in whole.
- iii) The Office is obligated to consider an exemption request and inform the carrier or service provider (in writing) of its decision.
- iv) In deciding whether to grant an exemption, the Office must have regard to whether the applicant (carrier or service provider) is reasonably able to comply with Rules in part or in whole, as per the exemption request.
- v) An exemption shall not be requested if the Office has issued a decision which considers the application of the Rules either in part or in whole, unless the applicant: -
 - a. relies upon new facts or changes circumstances that could not, with ordinary diligence have become known to the applicant while the matter was being considered by the Office; or
 - b. alleges that the decision was based upon material errors of fact or law.
 - c. Makes the request within fourteen (14) days of receipt of the decision.

Auditing Guidelines for Regulatory Accounts

G.1 Aims of Auditing

The underlying objective of the Applicable Accounting Documents is to provide a broad context for the auditing objectives set out below viz:-

- (i) to determine whether a carrier and or service provider has implemented the provisions of the “Applicable Accounting Documents” appropriately and effectively.
- (ii) to determine whether a carrier and or service provider:-
 - (a) is in full compliance with the current cost accounting policies, principles and procedures specified in the Applicable Accounting Documents.
 - (b) exercises consistency in applying the Applicable Accounting Documents to their accounting system and in the preparation and publication of each Regulatory Financial Statements.
- (iii) ascertain the adequacy of a carrier and or service provider’s monitoring, review and implementation arrangements with respect to the Office’s determination(s) including amendments which impact upon the Applicable Accounting Document; and
- (iv) to determine whether the Regulatory Financial Statements and other information produced and supplied to the Office and the public at large by a carrier and or service provider can be relied upon by the Office. *That is, there are no material errors or misstatements.*

G.2 Appointment of Auditors

- (i) The initial appointment of auditors as well as subsequent reappointment shall be done via a letter of engagement, the format and content of which shall be agreed on between the Office and the carrier and or service provider.
- (ii) Subject to G.2(i) it is the duty and responsibility of a carrier and or service provider to appoint auditors to undertake the auditing exercise of its regulatory accounts and shall notify the Office in writing of the appointment.
- (iii) Notification of appointment of auditors shall be in writing and must be done no later than 28 days prior to the financial period for which the audit applies.

- (iv) Auditors shall be reappointed from year to year and the carrier and/or service provider shall provide the Office with a written notice of such reappointment no later than 28 days prior to the financial period for which the audit applies.
- (v) Where the carrier and or service provider decides to change its auditors for purposes of regulatory accounts it shall provide the Office with no less than 28 days written notice of such change and shall indicate the reason for the change.
- (vi) The provisions of G.2 (i), (ii), and (iii) shall apply in the appointment of any new auditors.
- (vii) It is the duty and responsibility of a Carrier and/or Service Provider to ensure that Auditors undertake the auditing exercise in conformity to the “Applicable Accounting Documents” including amendments stipulated by the Office and or any relevant determination or equivalent documents issued by the Office.
- (viii) Subject to G.2 (i), (ii), (iii), and (v) the Auditors of a Carrier’s and/or Service Provider’s annual statutory accounts may be appointed to carry out the audit of its Regulatory Financial Statements.
- (ix) The terms of engagement of the auditors shall explicitly provide for submission of reports to the Office and shall also allow the Office to make direct/indirect request to the auditors (subject to notification of the carrier and/or service provider) to provide clarification and explanation.
- (x) The Office may do any or all of the following:-
 - (a) Invite the auditors to discuss:-
 - (i) the procedures to be applied by them in carrying out the auditing exercise, and/or;
 - (ii) their findings following performance of the auditing exercise.
 - (b) Request a carrier and or service provider to instruct their auditors to perform additional and/or alternative work to substantiate the statements and or assertions contained in the Regulatory Financial Statements and supporting notes, to which they have expressed an opinion and to report to the Office accordingly.

- (c) Appoint auditors directly to undertake further reviews, examinations and audits as the Office deems necessary if in the opinion of the Office:-
 - (i) a carrier and or service provider and or their auditors fail to provide the degree of assurance required by the Office, and or
 - (ii) the nature, timing or extent of any additional auditing exercise carried out by the regulated company's auditor is still inadequate.
- (d) Initiate the conduct of ad hoc audits covering specific issues and for any period.
- (xi) Annual audit work carried out for purposes of Regulatory Financial Statements, whether by auditors selected and appointed by the carrier and or service provider or by the auditors selected and appointed by the Office shall be at the expense of the carrier and or service provider. Such expenses/audit fees shall be recovered from the entire industry, that is, from purchasers of wholesale services (including interconnection seekers and C&WJ).
- (xii) Ad hoc audits covering specific issues conducted in any period shall be at the expense of the Office, unless the specific issues should have been covered in the annual audit work carried out for purposes of Regulatory Financial Statements.

G.3 Audit Administration

- (i) In accordance with generally acceptable accounting practices, the auditors appointed to carry out auditing of each Regulatory Financial Statement may utilize the internal audit resources of a carrier and or service provider where it is considered financially feasible to do so.
- (ii) A carrier and or service provider shall nominate a "Responsible Officer" as the person responsible for overseeing the administration and execution of the audit and the official contact for the Office.
- (iii) The audit is to be carried out for the financial period(s) determined by the Office and may be conducted concurrently with the audit of the annual statutory accounts.
- (iv) Where practical and as agreed with the Office, the audit or aspects of the audit may be conducted during the course of the audit year.

G.4 Nature of Auditor's Report

- (i) The auditors shall plan and carry out the work as will enable them to report whether any matter has come to their attention, from the work carried out by them which causes them to believe that each Regulatory Financial Statement does not in all material respects:-
 - (a) comply with any relevant determination or equivalent documents issued by the Office;
 - (b) contain the information specified by these determinations or equivalent documents; and
 - (c) satisfy the applicable auditing standard specified by the Office in accordance with the Applicable Accounting Documents.
- (ii) Should any such matters come to the auditor's attention, these matters should be clearly described in the report.
- (iii) Additionally, the auditors report is to clearly set out the respective responsibilities of the auditor and the carrier and/or service provider and the basis on which the audit has been carried out and the opinion arrived at. Where any issues arise that may require clarification, the Office expects that the carrier and/or service provider and/or auditors may obtain such clarification from the Office by way of a written request.

G.5 Audit Conduct

- (i) The carrier and or service provider is required to use its best endeavors to ensure that the conduct of the audit is in accordance with the Applicable Accounting Documents, Determination(s) or equivalent documents issued by the Office, contain the information specified by these determinations or equivalent documents as required to be published in each Regulatory Financial Statement and supporting notes. It is the responsibility of the carrier and or service provider to ensure, inter alia, that an auditor is appointed; that the audit is completed on time; and the audit memorandum and independent audit report are completed as required by the Office.
- (ii) Auditors should provide an independent assessment of the regulatory accounts in accordance with the regulatory framework and must have no engagements or arrangements which would create, or could be seen to create, a conflict of interest with its duty to confirm whether the accounts comply with the stated regulatory framework.
- (iii) An auditor appointed by a carrier and or service provider enters into a client-auditor relationship and the appointee is therefore the auditor's client.

- (iv) The agreement between a carrier and or service provider and the auditor should indicate the absence of any conflict of interest.

G.6 Statement of Responsibility

- (i) In order to satisfy **rule 8** of the Regulatory Accounting Rules, the statement of responsibility concerning the filings of audited “Regulatory Financial Statements” by a dominant *company*, in compliance with the Regulatory Accounting Rules will be of the following general format.

STATEMENT OF RESPONSIBILITY FOR REGULATORY FINANCIAL STATEMENTS

Consistent with the declaration of dominance, (*name of the dominant entity*)..... is required under Sections 4 (5) and 35 (1) of the Telecommunications act (2000) to provide the Office with regulatory accounts that maintain accounting records in a form which enables the activities of any of its businesses specified in any direction given by the Office to be separately identifiable, and which the Office considers to be necessary in showing and explaining the transactions of each of these businesses.

The Separated Regulatory Accounts for the year ended 31 March 200X comprise:

For each Business:

- i) a profit and loss account;
- ii) a statement of mean capital employed

They also include a:

- iii) Statement of costs of network service for the Network Business; and
- iv) Transfer charge statement.

The directors are responsible for keeping proper accounting records for each of the separate businesses that disclose, with reasonable accuracy, at any time, the financial position of each separate business to enable them to ensure that the regulatory accounts comply with the Licence. (*Name of dominant company*)..... confirms that the Separated Regulatory Accounts for the year ended 31 March 200X have been reconciled to the relevant Statutory Accounts and to the best of its knowledge have been prepared in accordance with the requirements of the Regulatory Accounting Guidelines and the directives of the Office.

.....
Senior Officer, (*Insert name of dominant company*).....

.....
Type or print Senior Officer’s name