

THE TELECOMMUNICATIONS ACT

THE TELECOMMUNICATIONS (INFRASTRUCTURE SHARING) RULES, 2022

ARRANGEMENT OF RULES

1. Citation.
2. Interpretation.
3. Objects of Rules.
4. Infrastructure sharing.
5. Request to amend, *etc.* infrastructure sharing obligation on infrastructure.
6. Licensee's general obligations of good faith *etc.*
7. Procedure for infrastructure sharing request.
8. Processing of request.
9. Infrastructure sharing agreement.
10. Exceptions to obligation to share infrastructure.
11. Independent verification of basis of refusing to share infrastructure.
12. Referral of dispute to the Office.
13. Reserve space or capacity.
14. Reference access offer.
15. Modification or replacement of shared infrastructure procedure.
16. Redevelopment, relocation or removal of shared infrastructure procedure.
17. Confidentiality.
18. Public disclosure of infrastructure sharing agreement.
19. Dispute resolution.
20. Request by Office for documents, *etc.*, to resolve dispute.
21. Office makes decision in relation to a dispute.

- 22. Infrastructure sharing charges.
- 23. Office setting of charges for infrastructure sharing.
- 24. Costs of infrastructure sharing.
- 25. Security deposit.
- 26. Transitional provisions.
- 27. Savings.

THE TELECOMMUNICATIONS ACT

The Telecommunications (Infrastructure Sharing) Rules, 2022

In exercise of the power conferred upon the Office of Utilities Regulation by section 29A (2) of the Telecommunications Act, and of every other power hereunto enabling, the following Rules are made, after consultation with the Minister: –

Citation. 1. These Rules may be cited as the Telecommunications (Infrastructure Sharing) Rules, 2022, and shall come into operation on the 1st day of February, 2023.

Interpretation. 2. In these Rules, unless the context otherwise provides –

“access” means the ability of a licensee to use another licensee’s infrastructure in order to provide telecommunications services;

“authorization” includes any licence or permit issued by a relevant environmental and planning authority or the Authority;

“connected company” includes –

- (a) a holding company or subsidiary of a licensee;
- (b) any company of which a licensee has control;
- (c) any company of which a licensee and persons connected with a licensee both have control; or
- (d) any company of which together with a licensee, constitutes a group of companies;

“control”, in relation to infrastructure, means a licensee having the legal right or interest in that infrastructure;

“dispute” means, in relation to infrastructure sharing, any pre-contract or post-contract disputes between an infrastructure provider and an infrastructure seeker;

“framework agreement” means an infrastructure sharing agreement which establishes the terms and conditions that would apply to any additional infrastructure sharing request made by the infrastructure seeker to the infrastructure provider;

“infrastructure” means the tangibles used in connection with a public network or the intangibles facilitating the utilization of a public network;

“infrastructure provider” means a licensee who controls infrastructure amenable to sharing;

“infrastructure seeker” means a licensee who makes or has made an infrastructure sharing request to an infrastructure provider;

“infrastructure sharing” has the meaning assigned to it under section 29A (4) of the Act;

“infrastructure sharing agreement” means a binding agreement under rule 9 to share infrastructure between an infrastructure provider and an infrastructure seeker;

“infrastructure sharing request” means a request made by an infrastructure seeker to an infrastructure provider for sharing an infrastructure that is under the control of the infrastructure provider;

“intangibles” has the meaning assigned to it under section 29A(4) of the Act;

“public holiday” means a day declared to be a Public General Holiday under section 2 of the Holidays (Public General) Act;

“redevelopment” means the reconfiguration of a public network as a result of technological or business reasons;

“reference access offer” means an offer document made in accordance with rule 14;

“tangibles” has the meaning assigned to it under section 29A (4) of the Act;

“working day” means any day between the hours of 8:00 a.m. and 5:00 p.m. (inclusive), excluding Saturdays, Sundays and a public holiday.

Objects of Rules.

3. The objects of these Rules are to –
 - (a) optimize the utilization of existing infrastructure;
 - (b) protect the natural environment by reducing the proliferation and duplication of infrastructure being installed across Jamaica;
 - (c) promote fair and open competition through the provision of equitable access to infrastructure;
 - (d) promote the availability of high quality, efficient, cost effective and competitively priced telecommunications services to customers; and
 - (e) generally promote the objects of the Act.

Infrastructure sharing.

4. – (1) Subject to rule 10, a licensee shall share its infrastructure with another licensee, where –
 - (a) the licensee is classified as a dominant public communications carrier under section 28 of the Act; or
 - (b) the infrastructure is funded, wholly or in part, by –
 - (i) the Universal Service Fund; or
 - (ii) any other form of Government funding.

- (2) Subject to rule 7, the Office may impose an obligation on a licensee to share an infrastructure or type of infrastructure where –

- (a) the infrastructure or type of infrastructure is amenable to sharing pursuant to the considerations set out in section 29A of the Act; or
- (b) an infrastructure seeker has been refused an authorization to establish a similar infrastructure.

(3) Where an authorization has been refused, the infrastructure provider shall provide the infrastructure seeker with access to an infrastructure similar to that for which the authorization was refused.

(4) The Office, in making a determination on whether to impose an infrastructure sharing obligation under paragraph (2), shall, in addition to the matters set out in section 29A(1) (a) of the Act, consider –

- (a) whether the infrastructure is critical to the supply of telecommunications services by the infrastructure seeker;
- (b) whether the infrastructure meets the technical parameters of the infrastructure seeker's network;
- (c) the availability of space or capacity to host the infrastructure seeker, including a clearly demonstrable future need for space or capacity on the infrastructure;
- (d) the impact on the operational integrity of –
 - (i) the infrastructure provider's network; or
 - (ii) any existing equipment at the co-location or sharing site under the control of the infrastructure provider or any other third party;
- (e) the risk of serious interferences of the planned telecommunications services with the provision of the other services over the same infrastructure;
- (f) the existence of technical alternatives;
- (g) safety and public health concerns; and

- (h) any other relevant considerations.

**Request to
amend, etc.
infrastructure sharing
obligation on
infrastructure.**

5. – (1) A licensee may, in writing, to the Office, request the imposition or non-imposition of an infrastructure sharing obligation, in respect of a particular infrastructure.

(2) The written request under paragraph (1) shall be accompanied by any records, documents or other information that demonstrate a reasonable basis for such a request.

**Licensee's
general obligations of
good faith
etc.**

6. – (1) A licensee shall –

(a) in good faith –

(i) process all requests for infrastructure sharing;

(ii) conduct all negotiations in respect to an infrastructure sharing agreement;

(iii) designate competent representatives with the requisite authority; and

(iv) seek to resolve any dispute;

(b) share its infrastructure with another licensee on a non-discriminatory basis.

(2) A licensee shall not –

(a) obstruct or delay negotiations or the resolution of disputes;

(b) refuse to provide any records, documents or other information that is relevant to an infrastructure sharing agreement, including records, documents or other information necessary to identify the required infrastructure and to assess price and costing;

(c) refuse to designate a proper representative to expedite the negotiation.

**Procedure
for infrastructure
sharing**

7. – (1) An infrastructure seeker may make an infrastructure sharing request by submitting that request, in writing, to an infrastructure provider.

request.

(2) The infrastructure sharing request made under paragraph (1) shall include –

- (a) information as to the specific infrastructure for which infrastructure sharing is required;
- (b) details of the infrastructure sharing that is required;
- (c) the extent to which access is required by the infrastructure seeker in order to install, maintain or use the equipment to be installed;
- (d) the date by which infrastructure sharing is required;
- (e) information as to the period of time for which infrastructure sharing is required;
- (f) a description of the equipment to be installed;
- (g) details of the security, safety, environmental, loading and spatial requirements of the equipment referred to in paragraph (2)(f);
- (h) the contact details of the infrastructure seeker; and
- (i) any other information that may be required by the Office as published in such manner as the Office considers appropriate.

(3) An infrastructure seeker shall, within two working days of making an infrastructure sharing request under paragraph (1), submit a copy of the infrastructure sharing request to the Office.

(4) An infrastructure seeker may request a site inspection of the infrastructure that is the subject of the infrastructure sharing request and shall thereafter have the right to modify its initial request accordingly.

(5) Upon receipt of the infrastructure sharing request, the infrastructure provider shall within three working days –

- (a) acknowledge receipt, in writing, to the infrastructure seeker; and
- (b) submit a copy of the acknowledgement under subparagraph (a) to the Office.

(6) Where an infrastructure seeker has made a request under paragraph (4), an infrastructure provider shall, within five working days, facilitate a site inspection.

**Processing
of request.**

8. – (1) Upon receipt of an infrastructure sharing request under rule 7, an infrastructure provider shall, within ten working days, make a determination of the completeness of the infrastructure sharing request, in writing, to the infrastructure seeker and the Office.

(2) Where the infrastructure provider determines that the infrastructure sharing request is complete, the infrastructure provider shall, within ten working days, notify the infrastructure seeker and the Office, in writing –

- (a) by indicating its willingness to share and providing the minimum requirements for entering into an infrastructure sharing agreement; or
- (b) subject to rule 10, by refusing the infrastructure sharing request, stating the reasons therefor.

(3) Where the infrastructure provider determines that the infrastructure sharing request may be incomplete –

- (a) the infrastructure provider shall, within ten working days, notify the infrastructure seeker to provide any further information as the infrastructure provider may reasonably require to make a determination of the completeness of the infrastructure sharing request; and
- (b) the infrastructure seeker shall, within fifteen working days, submit the further information to the infrastructure provider.

(4) The infrastructure provider and the infrastructure seeker shall inform the Office of the correspondence between the parties regarding the information request and any response provided in relation to the request.

(5) Upon receipt of the further information in paragraph (3), the infrastructure provider shall, within five working days, make a determination whether the infrastructure sharing request is complete.

(6) Where the infrastructure sharing request in paragraph (5) is complete, the infrastructure provider shall proceed in accordance with paragraph (2).

(7) Where the infrastructure sharing request in paragraph (5) is incomplete, the infrastructure provider shall either reject the infrastructure sharing request in its entirety and, in writing, notify the infrastructure seeker and the Office, or request the outstanding information in accordance with paragraph (3).

Infrastructure sharing agreement.

9. – (1) Where an infrastructure provider agrees to an infrastructure sharing request under rule 8(2) (a), the infrastructure provider shall, within forty working days after written notification to the infrastructure seeker of an agreement to infrastructure sharing, use all reasonable endeavours to execute an infrastructure sharing agreement, unless such period has been extended, in writing, by the Office on the request of either party.

(2) An infrastructure sharing agreement executed under paragraph (1) shall –

- (a) specify the contractual terms and conditions agreed by the infrastructure provider and infrastructure seeker; and
- (b) not contain any terms and conditions that prohibit or frustrate the supply of telecommunications service or facility that a licensee is lawfully allowed to provide.

(3) The infrastructure sharing agreement shall include, where applicable to the type of infrastructure sharing –

- (a) the objective of the agreement;

- (b) the scope and specification of the infrastructure;
- (c) access to all ancillary and supplementary services or access and use of premises that are required to support the provision of the infrastructure;
- (d) the service levels and maintenance of the infrastructure, including –
 - (i) service levels and quality of service obligations;
 - (ii) penalties;
 - (iii) testing and maintenance;
 - (iv) fault reporting and repair;
 - (v) service level disputes; and
 - (vi) network protection and safety measures;
- (e) the charges associated with the infrastructure, including –
 - (i) detailed charges *per* infrastructure or set of infrastructure;
 - and
 - (ii) the mechanisms for review of the charges;
- (f) the billing and settlement procedures;
- (g) the ordering, forecasting, provision and testing procedures;
- (h) the co-location for the equipment and the terms in accordance with that co-location;
- (i) the records, documents or other information regarding modernization or rationalization activities which may impact the infrastructure which is the subject of the infrastructure sharing;
- (j) the technical specifications, standards and interoperability tests;
- (k) information handling and confidentiality;
- (l) the approvals received from all relevant authorities;
- (m) the effective date and duration of agreement, renegotiation and review procedures;

- (n) the grounds for termination and termination procedures;
- (o) the dispute resolution procedures;
- (p) any other information that may be required as published in such manner as the Office considers appropriate.

(4) The terms and conditions under which an infrastructure sharing agreement is made shall –

- (a) be on a non-discriminatory basis;
- (b) uphold the principles of transparency, neutrality and fair competition; and
- (c) be within the limits of a reference access offer, where applicable.

(5) An infrastructure provider and infrastructure seeker shall lodge, with the Office, a copy of an infrastructure sharing agreement and any subsequent modifications within ten working days of its execution and the Office may object to such agreement.

(6) Upon the implementation of an infrastructure sharing agreement, an infrastructure provider shall not deny or impair the agreed access to the infrastructure, unless–

- (a) authorized by the Office, in writing; or
- (b) in accordance with an order made by the Appeal Tribunal or court.

Exceptions to obligation to share infrastructure.

10. – (1) A licensee shall not refuse to share its infrastructure, where an obligation to share infrastructure is imposed under rule 4, except where the refusal is on the basis of physical or technical impracticability, in particular, –

- (a) the impairment of the security or reliability of the infrastructure, its public network or a third party's public network;
- (b) the unavailability of space to host another licensee on the basis of reserving capacity in accordance with these Rules; or

- (c) any other engineering conditions that would make sharing of the infrastructure technically infeasible.

(2) An infrastructure provider may refuse a request for infrastructure sharing, where, pursuant to rule 8(2) –

- (a) the infrastructure seeker fails to submit further information requested by the infrastructure provider; and
- (b) the request for infrastructure sharing is determined to be incomplete.

Independent verification of basis of refusing to share infrastructure.

11. – (1) The Office may carry out an independent verification of the basis for the refusal to share an infrastructure by an infrastructure provider where such a refusal is on the grounds set out in rule 10.

(2) In carrying out an independent verification under paragraph (1), the Office may –

- (a) direct the infrastructure provider to produce any records, documents or other information in connection with the decision to refuse the infrastructure sharing request; and
- (b) enter the premises to inspect the infrastructure to determine the reasonableness of the decision.

(3) In determining the reasonableness of the decision to refuse the infrastructure sharing request, the Office may take into account previous successful sharing of that infrastructure or any other similar infrastructure.

Referral of dispute to the Office.

12. Where an application for infrastructure sharing has been refused, the infrastructure seeker may, by application, in writing, refer the matter to the Office as a dispute under rule 19, within ten working days of the receipt of the decision under rule 8(2) (b) or 8(7).

Reserve space or capacity.

13. – (1) An infrastructure provider may reserve space or capacity on its infrastructure, for its own use, unless available space or capacity on that infrastructure, is limited, subject to paragraphs (3) and (4).

(2) The Office shall balance the right of an infrastructure provider to reserve space or capacity and the need to promote competition in the industry, in making a determination of whether an infrastructure provider should reserve space or capacity.

(3) Where an infrastructure provider exercises the option to reserve space or capacity on an infrastructure with limited space or capacity –

- (a) the maximum period to reserve space or capacity shall be two years; and
- (b) the maximum reserve space or capacity shall be thirty percent of the available space or capacity.

(4) Notwithstanding paragraph (3), where an infrastructure provider needs to reserve space or capacity on its infrastructure in excess of a period of two years or a space or capacity of thirty percent, or both, the infrastructure provider shall request and obtain the written approval of the Office.

(5) An infrastructure provider shall, upon request, make available all records, documents or other information to the Office for the purpose of supporting the need to reserve space or capacity and the percentage of the reserve space or capacity.

**Reference
access offer.**

14. – (1) An infrastructure provider shall submit a reference access offer for approval to the Office –

- (a) in the case of an existing infrastructure provider, within sixty working days of the promulgation of these Rules and every five years thereafter; or
- (b) in any other case, within a period to be determined by the Office, and thereafter, every five years.

(2) A reference access offer shall include the following general components –

- (a) Definitions;
- (b) Service Descriptions;
- (c) Legal Framework;
- (d) Tariffs Schedule;
- (e) Joint Working Manual;
- (f) Service Schedule; and
- (g) Parameter Schedule.

(3) A reference access offer shall include the following particulars –

- (a) information on any infrastructure to be shared;
- (b) access to all ancillary and supplemental services or access to and use of infrastructure and premises that are required to support the provision of the infrastructure;
- (c) service levels and maintenance of the infrastructure, which include –
 - (i) service levels and quality of service obligations;
 - (ii) penalties;
 - (iii) testing and maintenance;
 - (iv) fault reporting and repair;
 - (v) service level disputes; and
 - (vi) network protection and safety measures;
- (d) ordering, forecasting, provision and testing procedures;
- (e) the co-location for the equipment and the terms in accordance with that co-location;
- (f) technical specifications, standards and interoperability tests;
- (g) charges associated with a particular infrastructure including –

- (i) detailed charges per infrastructure or set of infrastructure;
- and

- (ii) the mechanisms for review of the charges;

- (h) billing and settlement procedures;
- (i) information handling and confidentiality;
- (j) renegotiation and review procedures;
- (k) grounds for termination and termination procedures;
- (l) dispute resolution procedures;
- (m) options for a framework agreement;
- (n) any other information that may be relevant to the infrastructure seeker for the purpose of negotiation; and
- (o) any other information that may be required as published in such manner as the Office considers appropriate.

(4) A reference access offer, or any part thereof shall take effect on the written approval and the date specified by the Office.

(5) The Office, during the term of a reference access offer, may conduct periodic reviews of the reference access offer to remedy or remove anti-competitive consequences.

(6) All existing infrastructure sharing agreements executed by the filing infrastructure provider shall be amended in accordance with the reference access offer and until actually amended, are deemed to be so amended.

(7) All infrastructure providers shall develop a standard price list to provide guidance for determining the charges for all infrastructure sharing arrangements with the infrastructure seekers.

(8) The standard price under paragraph (7) shall be reasonable and based on the principles and cost methodology referred to in rule 22.

Modification or replacement of shared infrastructure procedure.

15. – (1) Before the start of a modification or replacement of any shared infrastructure, an infrastructure provider shall give a written notice to the Office and the infrastructure seeker –

- (a) at the time a decision is made to modify or replace an infrastructure; and
- (b) no later than ninety working days before the start of the actual modification or replacement.

(2) Where applicable, a notice under paragraph (1) shall include –

- (a) the reasons for the action;
- (b) the timeframe for the execution of the action; and
- (c) how the infrastructure seeker will be accommodated on the modified or replaced infrastructure.

(3) Paragraph (1), shall not apply where the modification or replacement is as a result of uncontrollable forces.

(4) The infrastructure seeker may submit a petition to the infrastructure provider within thirty working days after receipt of a written notice under paragraph (1).

(5) The infrastructure seeker shall send a copy of the petition under paragraph (4) to the Office.

(6) Upon receipt of a petition under paragraph (4), the infrastructure provider shall, within ten working days, reply to the infrastructure seeker and submit a copy of such reply to the Office.

Redevelopment, relocation or removal of shared infrastructure procedure.

16. – (1) An infrastructure provider shall give a written notice to all infrastructure seekers that share its infrastructure and to the Office, before the start of any redevelopment, relocation or removal of that shared infrastructure.

(2) The minimum period of time for giving the notice under paragraph (1) shall be –

- (a) in the case of a redevelopment, six months;
- (b) in the case of a relocation, twelve months; and
- (c) in the case of a removal, twelve months.

(3) The cost of the redevelopment or relocation may be –

- (a) jointly assessed by the infrastructure provider and infrastructure seeker; and
- (b) shared with the infrastructure seeker at a mutually agreed percentage.

(4) An infrastructure seeker may submit a petition to the infrastructure provider within thirty working days after receipt of a written notice under paragraph (1).

(5) The infrastructure seeker shall send a copy of the petition under paragraph (4) to the Office.

(6) Upon receipt of a petition under paragraph (4), the infrastructure provider shall, within ten working days, reply to the infrastructure seeker and submit a copy of such reply to the Office.

Confidentiality.

17. – (1) Except as provided for under the Act, all records, documents or other information shared between an infrastructure provider and infrastructure seeker, for the purpose of infrastructure sharing, shall be –

- (a) kept confidential and used only in relation to that infrastructure sharing;
- (b) disclosed only to employees, agents, or advisors of the infrastructure provider and the infrastructure seeker, for the purposes of discharging their job functions.

(2) A person shall not disclose any records, documents or other information to any person involved in the development of retail services of any of the parties or their connected companies, in particular –

- (a) those generated by the public network elements of the infrastructure provider and infrastructure seeker; and
- (b) those produced or shared as a result of the infrastructure sharing.

Public disclosure of infrastructure sharing agreement.

18. Notwithstanding rule 17, and except as provided under the Act, nothing shall prevent or frustrate the public disclosure of any infrastructure sharing agreement, including the publication of the infrastructure sharing agreement on the Office's website.

Dispute resolution.

19. – (1) Where a pre-contract or post-contract dispute arises between an infrastructure provider and an infrastructure seeker that cannot be amicably resolved –

- (a) in the case of a pre-contract dispute, during the negotiations of an infrastructure sharing agreement;
- (b) in the case of a post-contract dispute, after the dispute resolution procedures in the infrastructure sharing agreement have been exhausted,

the dispute may be referred to the Office, by way of a written notice for resolution.

(2) The written notice under paragraph (1) shall include –

- (a) the nature and description of the dispute;
- (b) a list of the issues that has been resolved;
- (c) a list of the issues that remain unresolved and the position of each party on those issues, supported by any relevant records, documents or other information;

- (d) a description of the efforts to resolve the differences by negotiation, supported by any relevant records, documents or other information;
- (e) the contact information for each party, including the name, address, telephone number, facsimile number and email address of the party;
- (f) the contact information for the designated representative for each party, including the name, address, telephone number, facsimile number and email address of that designated representative;
- (g) a clear and comprehensive explanation of the commercial context of the dispute, including an explanation of the reasons for the inability to reach an agreement;
- (h) proposed remedies, options or solutions for resolving the disputes and the reasons for the proposed remedies, options or solutions; and
- (i) any other information that the Office may require.

(3) Before referring a dispute to the Office, the party referring the dispute shall, in writing, notify the other party of its intention to refer the dispute.

Request by Office for documents, etc., to resolve dispute.

20. – (1) Where the Office intervenes in a dispute, the Office may request from the parties to the dispute, any records, documents or other information to facilitate the Office arriving at a decision.

(2) Where the Office has requested any records, documents or other information, under paragraph (1), the infrastructure provider and infrastructure seeker shall, within ten working days, provide the records, documents or other information requested.

Office makes decision in relation to a dispute.

21. – (1) The Office shall, in making a decision in relation to a dispute, take into account all the relevant circumstances relating to the dispute, including the records, documents and other information submitted by the

parties to the dispute, as well as the record of infrastructure sharing arrangements with competitors.

(2) The Office may, having regard to the nature of a dispute –

- (a) uphold a decision of the infrastructure provider to refuse an infrastructure sharing request;
- (b) direct the infrastructure provider to reconsider its decision to refuse an infrastructure sharing request;
- (c) direct the infrastructure provider and infrastructure seeker to implement an interim infrastructure sharing agreement;
- (d) impose an infrastructure sharing agreement on the parties; or
- (e) make any other determination regarding infrastructure sharing as is necessary.

(3) An interim infrastructure sharing arrangement under paragraph

(2)(c) –

- (a) may include terms and conditions for infrastructure sharing as the Office considers appropriate; and
- (b) shall remain in force until the dispute is resolved.

(4) The Office shall, upon making the decision, notify the parties and publish its decision on the website of the Office.

Infrastructure sharing charges.

22. – (1) An infrastructure provider shall determine the charges for infrastructure sharing in accordance with the following principles –

- (a) charges shall be determined in a transparent and non-discriminatory manner, and upon request, the methodology used to determine the charges shall be disclosed to the Office;
- (b) distinct components and corresponding charges shall be itemized to enable the infrastructure seeker to pay only for the specific items required to facilitate infrastructure sharing;

(c) charges for the provision of infrastructure shall be set out in a manner to enable separate pricing for –

- (i) the implementation of infrastructure sharing, including testing;
- (ii) rental charges for the use of an infrastructure; and
- (iii) variable charges for ancillary and supplementary services;

(d) charges shall be cost-based and allow the infrastructure provider to recover –

- (i) a reasonable rate of return on capital, appropriately employed;
- (ii) all attributable operating expenditures;
- (iii) depreciation; and
- (iv) proportionate contribution to the fixed and common costs of the infrastructure provider;

(e) where the infrastructure provider and infrastructure seeker provide each other with the same services, charges shall be reciprocal;

(f) charges shall not include compensation for loss of business as a result of providing infrastructure sharing services to the infrastructure seeker;

(g) charges shall not be more than the cost of owning and operating similar infrastructure;

(h) charges shall serve to promote the efficient use of the assets, sustainable competition and maximized benefits to customers.

(2) Subject to paragraph (3), an infrastructure provider shall, in setting its charges for infrastructure sharing, utilize the fully distributed cost methodology using current cost accounting and the annuities approach to depreciation.

(3) The Office may, in consultation with stakeholders, revise the costing methodology referred to in paragraph (2).

Office setting of charges for infrastructure sharing.

23. Where the Office is unable to obtain cost information, which is reliable and reasonably satisfactory, from an infrastructure provider or infrastructure seeker, for the purposes under these Rules, the Office may take into account local and international bench-marks, reciprocity, and any other approach that in its opinion is relevant to the setting of charges for infrastructure sharing.

Costs of infrastructure sharing.

24. – (1) Costs shall be borne by the licensee whose request or compliance activities cause those costs to be incurred.

(2) Notwithstanding paragraph (1), the infrastructure provider shall not seek to recover from the infrastructure seeker any costs associated with providing existing technical information about the infrastructure, including the review of the request and technical analysis.

Security deposit.

25. Where a security deposit is required by an infrastructure provider, such security deposit should be no more than the equivalent to the charges required to cover one month's sharing costs, or as determined by the Office, from time to time.

Transitional provisions.

26. The parties to an infrastructure sharing agreement executed before the commencement date shall –

(a) within twelve months from the commencement date, or within such longer period as the Office may, by notice in the *Gazette* prescribe –

(i) take all necessary action to ensure that the infrastructure sharing agreement complies with the provisions of these Rules; or

(ii) terminate the infrastructure sharing agreement; and

- (b) within three months from the commencement date, or within such longer period as the Office may, by notice in the *Gazette* prescribe, file with the Office such infrastructure sharing agreement.

Savings. 27. Notwithstanding rule 26, these Rules shall not affect the enforceability of any infrastructure sharing agreement executed before the commencement date.

Dated this 28th day of December, 2022.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Office of Utilities Regulation