

THE TELECOMMUNICATIONS ACT

The Telecommunications (Resolution of Interconnection Disputes) Rules, 2024

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THE TELECOMMUNICATIONS ACT

The Telecommunications (Resolution of Interconnection Disputes) Rules, 2024

In exercise of the power conferred upon the Office of Utilities Regulation under sections 29(4) and 34 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 (Resolution of Interconnection Disputes) Rules, 2024, and shall come into operation on the 27th day of *MAY*, 2024.

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

“affidavit” means an affidavit in support of a notice of request;

“dispute” means a pre-contract dispute or post-contract dispute as described under sections 29(4) and 34 of the Act, respectively;

“document” means, in addition to a document in writing, anything in which information of any description is recorded;

“notice of request” means a duly executed notice of request made under rule 6;

“panel” means the dispute resolution panel constituted under rule 15;

“party” means a licensee who is a party to a dispute under these Rules;

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

“receiving party” means a party, other than the requesting party;

“requesting party” means a party who makes a formal request under rule 6 for the Office to intervene in a dispute;

“respondent” means a party who is served with a notice of request

under rule 6;

“response” means an affidavit duly executed and containing the case presented for the respondent;

“working day” means any day between the hours of 8:30 a.m. and 4:30 p.m. (inclusive), excluding Saturdays, Sundays and public holidays.

Office may intervene in dispute.

3. – (1) Pursuant to sections 29(4) and 34(1) of the Act, the Office may intervene in a dispute –

- (a) on its own initiative; or
- (b) upon the referral of a dispute by a party, in the form of a complaint or a formal request for the Office to intervene in a dispute.

(2) The Office, in making a determination on whether to intervene in a dispute, shall assess whether –

- (a) the issue constitutes a dispute;
- (b) there is a case to answer;
- (c) regulatory intervention is necessary; and
- (d) a formal hearing should be conducted, pursuant to rule 8.

(3) Where the Office decides to intervene in a dispute on its own initiative, the Office shall –

- (a) in writing, require the parties to give, within the time stipulated by the Office, an indication of the nature and the status of the dispute; and
- (b) give such directions as it thinks fit.

Parties shall use reasonable endeavours to resolve dispute.

4. – (1) Notwithstanding rule 3, each party shall use reasonable endeavours to amicably resolve a dispute before that party –

- (a) lodges a written complaint to the Office, in accordance with rule

5; or

(b) requests the formal intervention of the Office, in accordance with rule 6.

(2) Pursuant to rule 4(1) (a), a party may, in writing, lodge a complaint to the Office before that party requests that the Office formally intervenes in a dispute.

(3) A complaint to the Office shall contain sufficient information, including the facts, a summary of the issues and the remedies being sought, to enable the Office to resolve the dispute.

Procedure for dealing with complaint.

5. – (1) Where the Office receives a written complaint under rule 4(1) (a), the Office shall, within five working days, submit a copy of the complaint to the respondent and invite comments thereon.

(2) The Office shall seek to resolve the complaint in the most effective and efficient way, as the Office thinks fit.

(3) The Office shall endeavour to resolve the issues raised in the complaint within fifteen working days after the receipt of the complaint.

(4) Where the Office exercises its powers to resolve the complaint, a decision made by the Office in respect thereof shall not constitute a decision on the merits of the complaint except where the decision is based on the clarification of the law or previous decisions of the Office.

(5) Where after the Office has intervened to resolve the complaint and there is no resolution reached, the party who made the complaint may formally request the intervention of the Office, in accordance with the procedures set out in rule 6.

Procedure where party makes formal request for

6. – (1) Pursuant to rules 4(1)(b) and 5(5), a party may request the Office to formally intervene in a dispute by filing a notice of request

intervention. accompanied by an affidavit to the Office, in both printed and electronic form.

(2) The notice of request shall be in the form set out in the

Schedule. Schedule and include –

- (a) a summary of the issues;
- (b) all relevant dates;
- (c) the reasons in support of why the dispute falls within the jurisdiction of the Office to determine;
- (d) the name, physical address, telephone number, facsimile number, and email address of the requesting party; and
- (e) the name, physical address, telephone number, facsimile number, and email address of the receiving party.

(3) The supporting affidavit shall include an outline of the facts accompanied by all the supporting documents and other information, in particular –

- (a) the name, physical address and contact information of the requesting party;
- (b) the name, physical address and contact information of the requesting party's designated representative;
- (c) the name, physical address and contact information of the receiving party;
- (d) the reasons in support of why the dispute falls within the jurisdiction of the Office to determine;
- (e) where applicable, any terms and conditions set out in a reference interconnection offer that is considered relevant;
- (f) a list of –
 - (i) the issues that have been resolved by the parties; and

- (ii) the unresolved issues and the position of each party in relation to those unresolved issues and the supporting documents and other information thereof;
- (g) a description of the parties' efforts to resolve their differences by negotiation and the supporting documents and other information thereof;
- (h) a clear and comprehensive explanation of the commercial context of the dispute, including an explanation of the reasons why an agreement has not been reached; and
- (i) proposed remedies, options or solutions for resolving the dispute, including the reasons for the proposals.

Requesting party may withdraw notice of request.

7. – (1) The requesting party may, at any time after making a request under rule 6, in writing, withdraw the notice of request.

(2) Upon receipt of the notice of withdrawal under paragraph (1), the Office shall, as soon as is reasonably possible, inform all other parties of the withdrawal.

Office to determine whether to hear a dispute.

8. – (1) Upon receipt of the notice of request under rule 6, the Office shall –

- (a) within three working days, issue an acknowledgement of receipt to the requesting party;
- (b) within five working days, submit a copy of the notice of request and affidavit to the respondent and invite comments thereon;
- (c) issue special instructions, as the Office thinks necessary, where there is more than one requesting party or respondent; and
- (d) within ten working days after receiving a response from the respondent, make a determination as to whether to –
 - (i) resolve the dispute without convening a panel;

- (ii) constitute a panel to hear the dispute;
- (iii) refer the matter back to the requesting party;
- (iv) dismiss the notice of request,

and advise the parties accordingly of the decision of the Office.

(2) In making a determination under paragraph (1)(d), the Office –

- (a) may meet with the parties individually or collectively, as soon as it is reasonably practicable to do so, to gather information that will assist the Office in making such determination; and
- (b) shall, on a case-by-case basis, consider –
 - (i) the factors set out in rule 3(2);
 - (ii) the complexity of the issues to be determined;
 - (iii) the impact of the dispute on the telecommunications sector; and
 - (iv) any other factors that the Office considers relevant for the purpose of making the determination.

(3) Where the Office determines that a panel to hear a dispute shall be constituted, the Office shall advise the parties of the issues to be determined by the panel.

(4) Where a party is advised by the Office that a panel is to be constituted, the party may, within five working days of being advised, raise a challenge to the inclusion of any issues identified by the Office to be determined by the panel.

(5) The Office shall, within ten working days of receipt of a challenge, inform the parties of the decision of the Office and confirm a list of issues to be determined by the panel.

(6) Where the Office decides not to constitute a panel, the Office may –

- (a) dismiss the notice of request, where in the opinion of the Office –
 - (i) the notice of request does not comply with the requirements under these Rules;
 - (ii) the notice of request is vexatious;
 - (iii) the issues identified in the notice of request to be determined are trivial, misconceived or lacking in substance;
- (b) refer the matter back to the requesting party, where, in the opinion of the Office, the requesting party has not engaged in negotiations, in good faith;
- (c) resolve the dispute where, in the opinion of the Office, it is suitable to do so.

Requesting party shall serve notice of request and affidavit after decision to convene a panel.

9. – (1) Where the requesting party has received the decision of the Office to constitute a panel, the requesting party shall, within two working days of the receipt of the decision, serve a copy of the notice of request and affidavit on the respondent.

(2) The requesting party shall, within three working days of service of the notice of request and affidavit on the respondent, file with the Office any supporting documents or other information to show that the notice of request and affidavit have been served on the respondent.

(3) Service shall be deemed to have been effected on the respondent on the date of the receipt of the notice of service under paragraph (2) by the Office.

(4) Where service of the notice of request on the respondent is unsuccessful –

- (a) the requesting party shall, in writing, notify the Office of the reasonable attempts made to effect service on the respondent

during the specified time; and

- (b) the Office shall issue special instructions for the service of the notice of request on the respondent.

Respondent shall file and serve response.

10. – (1) A respondent shall, within ten working days of the receipt of the notice of request and affidavit –

- (a) file a response with the Office, in both printed and electronic form; and
- (b) serve the response under subparagraph (a) on the requesting party.

(2) A response required under paragraph (1)(a) shall be in the form of an affidavit and shall include details of the respondent's disagreement with the matters contained in the notice of request and affidavit, along with any supporting documents or other relevant information, and shall outline any objections to the inclusion of any matter set out in the notice of request and affidavit.

(3) The respondent shall, within three working days of service of the response on the requesting party, file with the Office any supporting documents or other relevant information to show that the response has been served.

(4) Where service of the response on the requesting party is unsuccessful –

- (a) the respondent shall, in writing, notify the Office of the reasonable attempts made to effect service on the requesting party during the specified time; and
- (b) the Office shall issue special instructions for the service of the response on the requesting party.

(5) The Office shall, within three working days of the receipt of

the supporting documents or other relevant information to show that the response has been served under paragraph (3), issue to the respondent an acknowledgement of the receipt of the response.

Party may claim information is confidential information.

11. – (1) Pursuant to section 7(6) of the Act, a party to a dispute may claim that the documents or other relevant information or part thereof submitted to the Office under these Rules are confidential.

(2) Where a party makes a claim of confidentiality under paragraph (1), the party shall, in writing –

- (a) specify the document or other relevant information or part thereof that is confidential and provide reasons therefor; and
- (b) request that the Office does not disclose such document or other relevant information or part thereof to the other party.

(3) Upon receipt of the written request under paragraph (2), the Office shall –

- (a) inform the other party that such a request has been made; and
- (b) ask the other party whether it has any objection to the Office complying with the request;
- (c) having taken into account all the matters before it –
 - (i) classify the document or other relevant information or part thereof as confidential; or
 - (ii) not classify the document or other relevant information or part thereof as confidential;
- (d) inform both parties of the decision made under subparagraph (c).

Service of notice or documents.

12. – (1) Service of any notice or document required under these Rules to be served on another party is effected by –

- (a) personal delivery to an officer of the party;
- (b) delivery to the registered address of the party concerned; or

(c) electronic means.

(2) Any notice or document required under these Rules to be filed with the Office or panel, as the case may be, shall be –

(a) delivered to the Office personally, by registered post or by electronic means; and

(b) signed for by an authorized officer of the Office or the panel.

(3) Service by registered post shall be deemed to have been effected on the tenth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice or document.

(4) Service by electronic means shall be deemed to have occurred on the next business day after the document is sent to the addressee at an electronic address previously given by the addressee and for which a notification of failed delivery has not been received.

(5) A certificate by the person who issued the notice or document under these Rules or by a person authorized on his behalf to do so, stating the time, place and manner of issuing the notice or document, shall be *prima facie* evidence that the notice or document was duly served.

Extension of time.

13. – (1) The Office or panel, as the case may be, may, on its own initiative or at the request of a party, extend the time for any act under these Rules.

(2) Where a party is unable to meet a stipulated time, the party shall make an application to the Office or panel, as the case may be, for an extension of time and state the reasons therefor.

Office and parties shall determine preliminary

14. – (1) The Office shall, within five working days of the completion of filing of all the documents and other relevant information by the

timetable to hear dispute.

parties to the dispute, meet with the parties to determine a preliminary timetable for hearing the dispute.

(2) Where it is determined that the preliminary timetable referred to under paragraph (1) will not be met, the Office shall, within five working days of the decision that a change in the preliminary timetable is necessary –

- (a) notify the parties of that change and provide reasons therefor; and
- (b) provide a new preliminary timetable.

Office shall constitute panel.

15. – (1) Where the Office decides to constitute a panel to hear a dispute, the panel may consist of one or a combination of the following –

- (a) one or more members of the Office; and
- (b) one or more persons who, in the opinion of the Office, have the requisite expertise to assist in the resolution of the dispute.

(2) The Office shall in its own discretion select the chairperson of the panel.

(3) Subject to paragraph (4), the panel may regulate its own proceedings.

(4) For the purposes of discharging its function under these Rules, the panel shall enquire into issues pertaining to a dispute and –

- (a) may proceed and act upon any evidence supported by an affidavit;
- (b) may make a decision on the basis of affidavit evidence only;
- (c) may hear oral evidence from the parties and any witnesses;
- (d) shall record all oral evidence and responses made during a meeting in any manner the panel considers appropriate; and
- (e) may seek the advice of any person who, in the opinion of the panel is able to assist the panel in its deliberations.

Panel may request additional documents or information.

16. – (1) The panel may request a party to provide clarification or additional documents or information, which, in the opinion of the panel, will assist in resolving the dispute.

(2) The party shall, within the time stipulated by the panel, respond to the request made under paragraph (1) by an affidavit.

(3) Upon receipt of the response under paragraph (2) –

(a) the panel shall cause a copy of that response to be served on the other party; and

(b) the other party may respond by affidavit, no later than five working days after the date of service of the response under subparagraph (a).

(4) The panel shall review a response made by either party and make a determination on whether –

(a) further clarification or any additional document or information is required and the manner in which the further clarification or any additional document or information is to be provided to the panel; or

(b) a meeting is necessary,

and shall advise the parties accordingly.

(5) Where the panel determines that a meeting is required, the panel may –

(a) summon the parties to a meeting;

(b) request that the parties provide such further and better particulars in the form of written submissions.

Panel may set pre-hearing.

17. – (1) The panel shall, as soon as it is reasonably practical to do so, fix a date, time and place for a pre-hearing.

(2) The panel shall cause a notice of the pre-hearing to be served,

no less than five working days before the date fixed for the pre-hearing, on the parties and any attorney-at-law representing the parties.

(3) During the pre-hearing –

- (a) the panel may give such directions as to the conduct of the proceedings;
- (b) the parties shall raise any further challenges to the inclusion of any issues identified in the dispute; and
- (c) where any further challenges are not raised by the parties, any such challenges shall be considered to be waived by the parties.

(4) The panel shall, within five working days after a pre-hearing, advise the parties, in writing, of the following decisions –

- (a) the outcome of the challenges raised;
- (b) the issues to be determined in the dispute; and
- (c) the agreed timetable for the hearing of the dispute.

Conduct of hearing by panel.

18. – (1) The panel may meet at such time and at such location as the panel may consider necessary for the purposes of hearing a dispute.

(2) The panel shall, in relation to a hearing –

- (a) fix a date, time and location; and
- (b) notify the parties of the matters under subparagraph (a) in writing, within fifteen working days before the date fixed for the hearing.

(3) Where there is proof of service of the notice under paragraph (2), the panel may, on the date of the hearing, proceed with the hearing, notwithstanding the failure of a party to appear at the hearing.

(4) Each party –

- (a) shall attend a hearing, in person, or through such modality as the panel may determine, and be heard by the panel;

(b) may present such additional information or evidence as the panel considers necessary; and

(c) may be accompanied and represented by an attorney-at-law.

(5) Where a party wishes to present such additional information or evidence at a hearing, the party shall, no later than ten working days before the date fixed for the hearing, or such other period as directed by the panel, disclose that additional information or evidence in the form of an affidavit addressed to the panel and the other party.

(6) In response to the presentation of additional information or evidence under paragraph (5), the other party to a dispute shall submit its response to the panel and the party, no later than five working days before the date fixed for the hearing.

(7) The panel may, before the conclusion of the hearing, adjourn that hearing and set another date for the continuation of the hearing.

(8) After each hearing –

(a) the panel shall, within fifteen working days after the hearing, circulate the notes of the hearing to the parties; and

(b) each party shall, within three working days of the receipt of the notes of the hearing under paragraph (a), acknowledge receipt to the panel.

Panel makes decision.

19. – (1) Where the panel makes a decision in relation to a dispute, the panel shall notify the parties of that decision, in writing, in accordance with the following –

(a) in the case of a hearing not being convened, no later than twenty working days after the date the panel notifies the parties that a hearing will not be convened; or

(b) in the case of a hearing being convened, no later than twenty

working days after the conclusion of the hearing of the dispute.

(2) The decision made under paragraph (1) shall include –

- (a) a ruling on each of the issues presented for resolution by the parties;
- (b) a statement of any conditions imposed on the parties, in order for the parties to comply with specific provisions under the Act;
- (c) the reasons and rationale for each of the ruling or conditions included in the decision.

(3) The panel, in making the decision under paragraph (1) –

- (a) shall make all reasonable effort to represent a fair balance between the legitimate interests of both parties;
- (b) may offer an alternative solution for the resolution of the dispute other than the solution proposed by the parties.

(4) Subject to rule 11, the decision of the panel shall be a matter of public record.

Panel may dismiss notice of request by panel.

20. – (1) Notwithstanding rule 19, the panel may, at any stage of the proceedings to hear a dispute, dismiss a notice of request where, in the opinion of the panel, the request for regulatory intervention is unfounded, frivolous or vexatious.

(2) Where the panel dismisses a notice of request, the panel shall inform the requesting party, in writing, stating the reasons therefor.

Review and appeal of decisions of the Office.

21. – (1) A party who is aggrieved by a decision of the Office, including a decision of the panel, made under these Rules may –

- (a) apply to the Office for reconsideration of the matter, in accordance with section 60(4) of the Act; or
- (b) appeal against the decision to the Appeal Tribunal, in accordance with section 62 of the Act.

3. Status of the Dispute

There has been resolution on some of the issues raised in the dispute (Please attach further details)

There has been no resolution on any of the matters raised in the dispute

Other:

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.....

.....

4. Outline the steps taken to amicably resolve the dispute:

[Please attach additional paper if required]

PART C

5. Outline the reasons in support of why the dispute falls within the jurisdiction of the Office to determine:

[Please attach additional paper if required]

6. List the supporting documents attached to this notice of request:

Dated this day of 20 ..

.....
 Signature of Requesting Party

.....
 Print Full Name

.....
 Capacity

Dated this 10th day of MAY, 2024.


 Director-General,
 Office of the Utilities Regulation