

**MEMORANDUM CIRCULAR  
NO. 06-09-2001**

**SUBJECT: IMPLEMENTING RULES AND REGULATIONS (IRR) FOR  
RETAIL PRICING**

**PREAMBLE**

WHEREAS, the National Telecommunications Commission (the “Commission”) seeks to establish a workable price regulation regime (including tariff levels and structures, and a price regulations system) which will assist in ensuring that the widest range of telecommunications services become affordable and available to more members of the community and will also provide for the economic viability of telecommunication entities and a fair return on the investments of such entities considering the prevailing cost of capital in domestic and international markets.

WHEREAS, pursuant to the mandate of R.A. 7925, otherwise known as the Telecommunications Policy Act of 1995, the Commission on September 25, 1995, issued Memorandum Circular (MC) No. 8-9-95, entitled, “ Implementing Rules and Regulations for Republic Act No. 7925 Re: An Act to Promote and Govern the Development of Philippine Telecommunications and the Delivery of Public Telecommunications Services”, to ensure that public telecommunications services are provided rates and tariff charges that are fair, just and reasonable through tariff structures based on socio-economic factors and on financial, technical and commercial criteria as measures to ensure a fair rate of return as a tool to ensure economic and social development.

WHEREAS, Section 17 of Republic Act 7925, mandated the National Telecommunications Commission to establish rates and tariffs which are fair and reasonable and which provide for the economic viability of telecommunications entities and a fair return on their investments considering the prevailing cost of capital in the domestic and international markets.

WHEREAS, under the same section the Commission has the power to exempt any specific telecommunications service from its rate or tariff regulations, if the service has sufficient competition to ensure fair and reasonable rates or tariffs. However, the Commission is mandated to establish a floor or a ceiling on the rates and tariffs when ruinous competition results or when a monopoly or a cartel or combination in restraint of free competition exists and the rates or tariffs are distorted or unable to function freely and the public is adversely affected;

WHEREFORE, the Commission by virtue of the powers vested upon it by law, does hereby promulgate the following implementing rules and regulations.



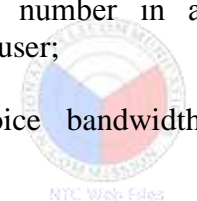
**Article I**  
**APPLICABILITY OF THE PROVISIONS**

Section 1      These rules shall be applicable to all duly authorized public telecommunications entities (PTEs)

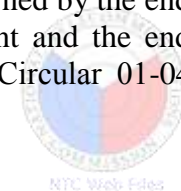
**Article II**  
**DEFINITION OF TERMS**

Section 2      The definitions provided in Section 2 of Memorandum Circular No. 14-7-00 are carried forward and are applicable to these implementing rules and regulations. In addition, the following words and phrases shall have the meaning assigned to them unless the context otherwise requires:

- a.      **Advanced CPE Services** – Enhancements to a CPE Services which could include features added to the local switch and accessed through -i) an advance CPE such as Caller ID, Call waiting, Call Hold, Call Forwarding, Voicemail, Text Messaging and others, and – ii) a large CPE with significant call handling features such as Key Systems, PABX, Centrex and other such equipment and facilities. For all intents and purposes, the Advanced CPE Service is one of the Enhanced Services as defined in MC 14-07-2000.
- b.      **Connection Time** – The duration of a telecommunications call between the calling end-user and the called end-user, in either or both directions, from the time the telecommunications signal is transferred from the calling end-user to the called end-user.
- c.      **Basic Access Line Service** - A service providing an access connection between the network termination point at the end-user's premises and the local switch side of the end-user's line card which, in combination with a CPE Service, will allow for the carriage of voice grade telecommunications services to or from end-user. The seven (7) prime components comprising the Basic Access Line Service are as follows:
  - 1.      Allocation to the end-user of a telephone number;
  - 2.      Publication of the end-user's telephone number in a telephone book, at the discretion of the end-user;
  - 3.      Dial tone, signaling, switching and voice bandwidth transmission support;



4. Emergency number access;
  5. Provision and/or maintenance of facilities, i.e., from and including the end-user's line card at the local switch to the network termination point at the end-user's premises;
  6. Fault reporting number and fault testing service and related call center services; and
  7. Billing and collection services and infrastructure.
- d. **Consumer Access Service** – A service provided by a PTE to enable its end-user to avail of the CPE Service, the Basic Access Line Service, and where requested by its end-user, Advanced CPE Services or other Enhanced Services, offered by that PTE, and also any or all of the other services offered by that PTE, or another interconnected PTE. This service is defined to have three (3) prime components which are the CPE Service, the Basic Access Line Service, and where requested by the end-user Advanced CPE Services or other Enhanced Services.
- e. **CPE Service** – A service which provides to an end-user a CPE and the internal wiring at the end-user's premises beyond the network termination point to the CPE, and maintenance of the same, Memorandum Circular 01-04-88 allows for the CPE and/or the internal wiring, each with or without associated maintenance, to be provided separately by suitably qualified and certified contractors independent of the PTEs, associated with the PTEs, or by the PTEs directly. This Memorandum Circular will not alter or amend the operation of Memorandum Circular 01-04 –88 in this regard. Where a PTE provides the bundled CPE Service, it will comprise the following five (5) prime components.
1. A CPE without Advanced CPF Service functions, which supports voice bandwidth communications (which has been type approved under Memorandum Circular 01-04-88);
  2. The CPE maintenance;
  3. Trouble shooting or trouble isolation for CPE;
  4. The internal wiring, which is that wiring owned by the end-user between the network termination point and the end-user's CPE (as defined in Memorandum Circular 01-04-88); and the internal wiring maintenance.



- f. **Fixed Telephone Service** – A service provided by a PTE to an end-user to avail of the Consumer Access Service and the Local Call Service, offered by that PTE, or another interconnected PTE. This service is defined to have two (2) prime components, which are the Consumer Access Service, and the Local Call Service offered by that PTE.
- g. **Independent Analyst** – A person or entity appointed by the Commission pursuant to Article VII of this Memorandum Circular.
- h. **Internal Wiring Service** - A service provided by a suitably qualified and certified contractor under Memorandum Circular 01-04-88, to install and/or maintain the internal wiring at the end-user’s premises from the network termination point to the end-user’s CPE. This contractor could be either independent of, associated with or be a PTE. This service is defined to have two (2) prime components which are;
  - 1. The internal wiring which is that wiring owned by the end-user between the network termination point and the end-user’s CPE (as defined in Memorandum Circular 01-04-088); and
  - 2. The internal wiring maintenance
- i. **Local Call Services** – Services that allow calls to originate and terminate within same local calling area, whether between – i) end-users of the same PTE, or ii) end-users of two (2) separate PTEs. This services has the following components;
  - 1. Provision and/or maintenance of the local switch excluding the end- user line card. This includes signaling, switching and voice bandwidth transmission support at the local switch.
  - 2. Provision and/or maintenance of facilities to house the local switch, its power supplies and other related equipment; and
  - 3. Provision and/or maintenance of the telecommunications links between local switches, and from each local switch to the next tandem or toll switch.
- j. **Major Player** – A PTE with a total capitalization of at least PHP100 million



- k. **Minor Player** – A PTE with a total capitalization of less than PHP100 million.
- l. **Tariff** – The price and non-price terms and conditions on which a telecommunications service is provided by a PTE to end-users.
- m. **Telecommunications Call** – An instance when a calling end-user is connected to a called end-user.

**Article III**  
**GENERAL RETAIL PRICING PRINCIPLES**

Section 3. A PTE must provide telecommunications services to end-users on terms and conditions that:

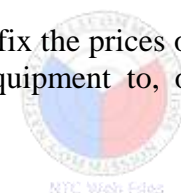
- a. Are just and reasonable
- b. Are non-discriminatory, meaning that any differences in the price and non-price terms and conditions for comparable services provided to different end-users must be based on objective differences, such as differences in the costs of supply, quality of service, or volume of service usage, and due considerations are given by PTEs to the social and welfare needs of the consumers; and
- c. Do not impede the development and maintenance of sustainable competition in the Philippines telecommunications markets.

Section 4. A PTE must not engage in unhealthy and unfair competition.

Section 5. A PTE must not make the supply to end-users of a telecommunications service or equipment or facility conditional upon the supply of another service or other equipment or other facility. Factors, which may have the effect of making supply conditional, shall include the following:

- a. Contractual terms and conditions; and
- b. Where the charge for a bundled tariff offering is less than the sum of the charges for the individual component services, equipment and/or facility.

Section 6. A PTE must not enter into agreements with other PTEs to fix the prices or restrict the supply of telecommunications services or equipment to, or access to facilities by, end-users.



Section 7. A PTE must publish and shall at all times disclose the price and non-price terms and conditions governing the provision of telecommunications services, equipment and/or facilities to end-users, including all tariff options for each service, equipment and/or facility.

Section 8. A PTE must not make claims or suggestions that are false or misleading or are likely to confuse or mislead end-users regarding the price or quality of its own telecommunications services, equipment and/or facilities or those of another PTE.

#### **Article IV**

### **RETAIL TARIFF STRUCTURES FOR LOCAL SERVICES**

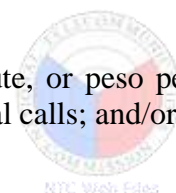
Section 9 A PTE must continue to provide Fixed Telephone Services to its end-users under sub-section (c) and one or more of the following retail tariff structures;

- (a) Post-paid tariff structure – where a PTE’s end-user pays charges at the end of a billing cycle for telecommunications services including local calls that the end-users desire to purchase;
- (b) Pre-paid tariff structure – where a PTE’s end-user is allowed to pay in advance for telecommunications services including local calls that they desire to purchase; and/or
- (c) Existing tariff structure – where the prevailing price agreement including currency exchange rate adjustments (CERA) under which the service is being offered by a PTE as authorized by the Commission, at the time of effectivity of this Memorandum Circular.

*Provided*, that PTEs providing Fixed Telephone Service at the time of the effectivity of this Memorandum Circular shall continue to provide such service under its existing tariff structure (item (c) above), regardless of whether or not it shall offer such service in accordance with the tariff options under items (a) and/or (b) above to its end- users.

Section 10 In the event a PTE offers Fixed Telephone Service under the tariff structure set forth in item (a) or (b) in the immediately preceding section, a PTE must choose and provide at least one (1) or a combination of the following two (2) tariff structures for the provision of Local Call Services which it must make available for choice by end-users;

- a) A charge per connection time unit (peso per minute, or peso per second, or peso per pulse) for the connection of local calls; and/or



- b) A fixed charge per local call (peso per call) regardless of the connection time.

Section 11 A PTE must combine each of the options set forth under Section 10 with either or both of the following two options for the supply of the Consumer Access Service to all residential and non- residential end-users:

- a) A lower fixed monthly charge (peso per month) for the supply of the Consumer Access Service (excluding Advanced CPE Services or other Enhanced Services requested by the end-user) than is offered for the Fixed Telephone Service at the effectivity of this Memorandum Circular; or
- b) A zero monthly rental charge for the supply of the Consumer Access Service (excluding Advanced CPE Services or other Enhanced Services requested by the end-user)

For the option chosen under this section, all PTEs must also provide a Basic Access Line Service, which excludes the provision of the CPE and/or Internal Wiring Service, and is priced at a level below that of the Consumer Access Service. PTEs are required to inform consumers of their responsibility for supplying themselves and paying separately for the CPE, CPE Service and/or the Internal Wiring Service, where they do not take up the PTEs offered CPE Service.

Section 12 The services provided pursuant to the tariff options under Section 9, 10 and 11 shall comply with the Commission's service performance standards.

Section 13 A PTE may make available to residential and non- residential end-users other call and local services in addition to or other than those to be offered pursuant to Section 9, 10 and 11, and under such tariffs set by a PTE, subject to the approval of the Commission.

## **Article V LOCAL SERVICE TARIFF LEVELS**

Section 14 The price levels of the tariffs offered pursuant to Section 9(c) shall be set by PTEs and shall be calculated in accordance with existing regulations.

Section 15 The levels of the tariffs and tariff components offered pursuant to Sections 9(a), 9(b), 10 and 11 shall be set by PTEs, subject to the following:

- a) The initial rates must not exceed the initial price ceilings determined by the Commission



- b) Any changes to the price ceilings must comply with the annual tariff adjustment formula as determined by the Commission: and
- c) Any changes to the rates must not exceed the adjusted price ceilings determined by the Commission, at subsequent ceiling re-set reviews as determined by the Commission under Section 16(b) of this Memorandum Circular.

Section 16 Within two (2) months after the effectivity of this Memorandum Circular the Commission shall engage an Independent Analyst to undertake a study on:

- a) Initial price ceiling;
- b) An adjustment formula and frequency for setting price ceiling, and a frequency for re-setting the adjustment formula, and
- c) An appropriate process and frequency for adjusting tariffs under the price ceilings.

for each of the Local Call and Customer Access Service tariffs offered pursuant to Section 9(a), 9(b), 10 and 11.

**Article VI  
TARIFF FILING AND APPROVAL**

Section 17 Prior to offering or implementing a tariff for Fixed Telephone Service and/or other services defined in this Memorandum Circular, as the case may be, or a modification of the same, a PTE shall submit the proposed tariff therefore to the Commission for approval as follows.

- a) Through a quasi-judicial process – in the case of proposals to increase tariffs adverted to under Sec.9(c) by public hearing; or
- b) Through a simple administrative process – in the case of proposals to –(i) set or adjust tariffs adverted to under Section 9(a) and (b), 10 and 11, provided that such tariffs are within the ceilings set by the Commission, and (ii) lower tariffs under Section 9(c); *Provided*, that in both instances, the proposal shall be deemed approved if the Commission fails to act thereon within thirty (30) days from receipt of such proposal.





- Section 18 The tariff structure or tariff submitted to the Commission for approval must contain a clear and unambiguous statement of the terms and conditions on which the service will be offered including any discounts or special conditions that will be offered. The same must be accompanied by an explanatory document, which describes the proposed service and its tariff structure or tariff, whether it is a new tariff structure/tariff or a modification of an existing tariff.
- Section 19 Major Players must submit their proposed tariff structures/options under Section 9(a), 9(b), 10 and 11 above, including the tariffs therefore, for approval by the Commission within a period of four (4) months from the time the Commission approves the initial tariff ceilings relative to the tariff structures/options under Section 9(a), 9(b), 10 and 11.
- Section 20 Minor Player must submit their proposed tariff structures/options under Sections 9(a), 9(b), 10 and 11 above, including the tariffs therefore, for approval by the Commission by 31 December 2005.

**Article VII**  
**APPOINTMENT OF AND TERMS OF REFERENCE**  
**FOR THE INDEPENDENT ANALYST**

- Section 21. The independent analyst to be appointed by the Commission pursuant to the provisions of Section 16 must have the necessary experience and expertise in the field of telecommunications tariff determination, must not be a PTE nor its affiliate or subsidiary, or in the case of a natural person, must not have been an employee or consultant of a PTE within six (6) months prior to their appointment as Industry Analyst under this Article. The Independent Analyst shall provide professional, objective and impartial advice to the Commission.
- Section 22. The Independent analyst will submit its study, findings and recommendations to the Commission on:
- a) Initial price ceilings
  - b) An appropriate adjustment formula and frequency for setting price ceilings, and a frequency for re-setting the adjustment formula; and
  - c) An appropriate process and frequency for adjusting tariffs under the price ceilings.

for the Local Call and Customer Access Service tariffs offered pursuant to Section 9(a), 9(b), 10 and 11, for each Local Calling Area.



- Section 23 In recommending the initial ceiling rates for Local Call and Customer Access Services, the tariff adjustment formula, the frequency of resetting the adjustment formula, and the frequency of tariff adjustments, the independent analyst must take into account the following factors:
- a) End user affordability
  - b) The need to encourage increased subscriptions through appropriate tariff levels;
  - c) The cost of providing local call and access services;
  - d) The economic viability of telecommunication entities and the need to ensure a fair and reasonable rate of return,
  - e) Whether a tariff ceiling adjustment formula or mechanism (e.g.; inflation adjustment, volume adjustment, foreign currency exchange rate (CERA) adjustment or other) is required for tariffs conforming to Sections 9(a), 9(b), 10 and 11, and where such an adjustment is required, what would be the most appropriate mechanism for addressing market fluctuations;
  - f) The need for tariff rebalancing;
  - g) Improvements in the efficiency of service provision through incentive mechanism in the tariff ceiling adjustment formula.
- Section 24 All PTEs shall provide to the Independent Analyst specific financial information, cost data, network traffic data and such other operational data as may be required by the Independent Analyst for the purposes of carrying out the study.
- Section 25 A confidentiality agreement shall be signed by the Independent Analyst and the PTEs to ensure the non-disclosure of confidential information supplied by the PTEs for the purpose of complying with the provision of these rules.
- Section 26 The Independent Analyst shall not disclose to any third party information provided to it by a PTE, unless it is with prior knowledge and written consent of such PTE, or the disclosure thereof is required by law or by any lawful order of any competent authority.
- Section 27 The Independent Analyst shall prepare a public report setting out its findings and recommendations as a result of the study it undertakes, but shall not disclose in the report any information pertaining to individual PTEs. The Commission may, after notice and public hearing, adopt and/or disregard, fully or partially, the recommendations of the Independent Analyst, and subsequently modify the same from time to time.



**Article VIII**  
**FINAL PROVISIONS**

- Section 28 The provisions of Section 84 and 85, Article XXI of Memorandum Circular 14-07-2000 are hereby adopted and shall form part of this Memorandum Circular.
- Section 29 Any portion or section of these rules, which may be declared invalid or unconstitutional shall not affect the validity of the other remaining portions or sections.
- Section 30 All existing memoranda, circulars, rules and regulations inconsistent with the provisions of this Memorandum Circular are hereby repealed or amended accordingly.
- Section 31 This Memorandum Circular shall take effect fifteen (15) days following the completion of its publication in the Official Gazette or in a newspaper of general circulation in the Philippines; *Provided*, that at least three (3) certified copies thereof be filed with the University of the Philippines Law Center.

Quezon City, Philippines 12 September 2001

**(SGD.) ELISEO M. RIO JR.**  
Commissioner

**(SGD.) KATHLEEN G. HECETA**  
Deputy Commissioner

**(SGD.) ARMI JANE R. BORJE**  
Deputy Commissioner

