

**SAINT LUCIA****STATUTORY INSTRUMENT, 2015, No. 110****ARRANGEMENT OF REGULATIONS**

## Regulations

**PRELIMINARY**

1. Citation
2. Interpretation
3. Application and non-application

**PART I  
REGULATION OF TARIFF**

4. Commission to regulate tariff

**PART II  
TARIFFS FOR TELECOMMUNICATIONS SERVICE**

5. Tariff to satisfy minimum requirements
6. Unfair and unreasonable tariff
7. Disclosure and publication of tariff
8. Anti-competitive conduct
9. Unregulated telecommunications service
10. Tariff review

**PART III  
PRICE REGULATION REGIME****Division 1  
Price Regulation Regime**

11. Compliance with price regulation regime
12. Procedure for adoption of price regulation regime

**Division 2  
Regulated Telecommunications Service**

13. Regulated telecommunications service
14. Special telecommunication services
15. Dominance by public consultation
16. Presumed dominance
17. Declaration of dominance
18. Review of declaration

*Telecommunications (Retail Tariff) Regulations*

19. Amendment of licence after declaration
20. Deemed dominant telecommunications provider
21. Market trial
22. Bundles
23. New telecommunications service

**PART IV  
TARIFF APPLICATION**

24. Prohibition on tariff
25. Application
26. Grant or refusal of grant of application
27. Amendment or withdrawal of tariff

**PART V  
TREATMENT OF CUSTOMERS BY TELECOMMUNICATION  
PROVIDERS**

28. Contract to contain minimum terms
29. Billing
30. Itemized bills
31. Disconnection

**PART VI  
MISCELLANEOUS**

32. Decisions and directions of the Commission
33. Referral to High Court
34. Written recommendation from ECTEL
35. Extension of timeframes
36. Issuance of guidelines
37. Revocation
38. Savings

**Telecommunications (Retail Tariff) Regulations****SAINT LUCIA****STATUTORY INSTRUMENT, 2015, No.**

[ 7th December, 2015 ]

In exercise of the power conferred under section 73 of the Telecommunications Act, Cap. 8.11, the Minister responsible for telecommunications makes these Regulations:

**PRELIMINARY****Citation**

1. These Regulations may be cited as the Telecommunications (Retail Tariff) Regulations, 2015.

**Interpretation**

2. In these Regulations—

“Act” means the Telecommunications Act, Cap. 8.11;

“bill” means—

(a) the information issued by a telecommunications provider to a customer of the charges due for payment; or

(b) the information retained by a telecommunications provider for the purpose of recording and enabling debits and credits to be applied to the account of a customer;

“bundle” means a combination of telecommunication services, whether regulated or unregulated, provided by a telecommunications provider under a combined rate or rate formula where the offering of one or more telecommunication services within the combination is contingent on the acceptance of the entire combination of telecommunication services;

“cost-based pricing” means setting the amount charged for a telecommunications service according to the cost of providing that telecommunications service;

*Telecommunications (Retail Tariff) Regulations*

- “customer” means, in relation to a telecommunications provider, a person who uses or requests a telecommunications service from a telecommunications provider, including any person who uses or intends to use the telecommunications service for the purposes of, or in connection with, a business;
- “directory” means a printed document containing the name, number and address of customers of telecommunication services which is made available to members of the public;
- “directory enquiry facility” means a place for providing directory information supplied by a telecommunications provider through a telecommunications network;
- “dominant telecommunications provider” means a telecommunications provider that is declared to be dominant under regulations 15, 16,17 and 20;
- “emergency service” means a service provided by the police force, fire service, ambulance or other service relating to safety of life;
- “new telecommunications service” means a telecommunications service or a bundle which a telecommunications provider does not provide or offer to provide at the time of making an application under regulation 23;
- “price cap” means an incentive-based method for regulation of the tariff charged by a telecommunications provider for one or more regulated service;
- “price floor” means a price regulation regime for a market or a group of markets in which a telecommunications provider is prohibited from pricing a service or services at less than a minimum price determined by the Commission;
- “price regulation regime” means any system for regulating tariffs for a telecommunications service, such as, a price cap, a price floor, rate of return regulation and cost-based pricing;
- “rate” means a fixed amount charged to provide a telecommunications service;
- “rate of return regulation” means a price regulation regime where a price is set to enable a telecommunications provider to achieve a particular return on investment;
- “regulated service” means a telecommunications service that is designated by the Commission or deemed a regulated service under regulation 13;

*Telecommunications (Retail Tariff) Regulations*

“retail price” means an amount charged by a telecommunications provider to a customer for a telecommunications service;

“special telecommunications service” includes—

- (a) an emergency service;
- (b) operator assistance;
- (c) a directory enquiry facility; and
- (d) any other service designated by the Commission as a special telecommunications service under regulation 14(1);

“tariff” means the rate, retail price, terms and conditions applicable to a telecommunications service;

“unregulated service” means a telecommunications service that is not a regulated service;

“wholesale price” means an amount charged by a telecommunications provider of a telecommunications service to —

- (a) resellers of a telecommunications service; or
- (b) persons who use a telecommunications service as an input in the provision of other telecommunication services.

**Application and non-application**

3. (1) These Regulations apply to telecommunications services that a telecommunications provider offers or provides to one or more customers or to other telecommunication providers.

(2) Notwithstanding subregulation (1), these Regulations do not apply to interconnection services under the Telecommunications (Interconnection) Regulations, Cap.8.11.

**PART I  
REGULATION OF TARIFF**

**Commission to regulate tariff**

4. (1) Subject to these Regulations, the Commission shall, after consultation with ECTEL, regulate the tariff for telecommunication services offered or provided by a telecommunications provider.

(2) Without limiting the generality of subregulation (1), the Commission shall, after consultation with ECTEL—

*Telecommunications (Retail Tariff) Regulations*

- (a) set, review and approve tariffs for any telecommunications service;
- (b) require the publication of all tariffs for telecommunication services, whether regulated or unregulated;
- (c) publish and maintain an up to date list of regulated services on the website of the Commission;
- (d) publish a list of markets for telecommunication services on the website of the Commission;
- (e) declare a telecommunications provider as a dominant telecommunications provider in a relevant market;
- (f) declare a telecommunications service as a regulated service or unregulated service;
- (g) impose a price regulation regime in respect of any telecommunications service;
- (h) substitute or amend tariffs or any part of a tariff for a regulated telecommunications service;
- (i) investigate and resolve complaints relating to tariffs by customers or other telecommunication providers;
- (j) order compensation to be paid by a telecommunications provider to a customer or other telecommunications provider;
- (k) request information from a telecommunications provider relating to the retail price of telecommunication services or other financial information relating to the revenues or operations of a telecommunications provider;
- (l) monitor retail prices for telecommunication services;
- (m) regulate the tariff of a telecommunications service or group of telecommunication services where the Commission considers that it is just and reasonable to do so;
- (n) make decisions and issue directions to a telecommunications provider in respect of tariffs as the Commission considers appropriate; and
- (o) do all things reasonable and necessary in respect of regulating tariffs for telecommunication services.

**PART II**  
**TARIFF FOR TELECOMMUNICATIONS SERVICE**

**Tariff to satisfy minimum requirements**

5. (1) Subject to subregulation (2), a telecommunications provider shall ensure that the retail price for a telecommunications service is determined in accordance with the principles of supply and demand in the market.

*Telecommunications (Retail Tariff) Regulations*

(2) A telecommunications provider shall provide a tariff for a telecommunications service that—

- (a) is fair and reasonable;
- (b) does not discriminate unduly among similarly situated persons, including the telecommunications provider and anybody corporate with which the telecommunications provider is affiliated;
- (c) is not anti-competitive;
- (d) is priced above costs for providing a telecommunications service;
- (e) does not utilize revenues or the allocation of costs from one telecommunications service to cross-subsidize another telecommunications service, except with the written authorization of the Commission;
- (f) is clear, up to date and easily accessible by the public; and
- (g) charge the customer based on actual usage of the telecommunications service by the customer.

**Unfair and unreasonable tariff**

6. (1) The Commission may consider that a tariff is unfair and unreasonable where a telecommunications provider proposes any or all of the following—

- (a) an increase of a retail price, notwithstanding a reduction in the underlying costs for providing the telecommunications service;
- (b) a retail price for a telecommunications service which significantly exceeds the costs for providing that telecommunications service;
- (c) an increase of a retail price that, having regard to the nature of the telecommunications service, is likely to have a significant impact on customers in Saint Lucia;
- (d) an increase of a retail price that is unrelated to the costs of providing a telecommunications service;
- (e) multiple retail price increases for the same telecommunications service within a twelve month period;

*Telecommunications (Retail Tariff) Regulations*

- (f) terms and conditions that, having regard to the nature of the telecommunications service, the relative bargaining power of the customer and the telecommunications provider involved, and the availability of a substitute telecommunications service from another telecommunications provider, are unduly onerous; or
- (g) a tariff that departs materially from accepted standards in the telecommunications industry for providing the telecommunications service to the public, to the detriment of customers.

**Disclosure and publication of tariff**

7. (1) Upon the written request of the Commission, a telecommunications provider shall disclose to the Commission the tariffs for the telecommunication services provided by the telecommunications provider **in** such time and in such manner as the Commission specifies.

(2) The tariff disclosed by a telecommunications provider under subregulation (1) may be subject to a review by the Commission, on the recommendation of ECTEL, and if the tariff is accepted it is the official tariff for that telecommunications provider.

(3) Except where the Commission otherwise permits in writing, a telecommunications provider shall publish the tariff for the telecommunication services provided by the telecommunications provider—

- (a) in its directory, if any;
- (b) on the website of the telecommunications provider;
- (c) by sending or providing a copy of the tariff or any part of a tariff to a customer or group of customers that may reasonably request a copy; or
- (d) by placing a copy of the tariffs in every registered office and place of business owned or controlled by the telecommunications provider or body corporate with which it is affiliated, provided that such body corporate provides or offers to provide such telecommunication services to the public.

(4) Notwithstanding subregulation (3), the Commission may require a telecommunications provider to—

- (a) publish tariffs by one or all of the means specified in subregulation (3); and
- (b) publish a tariff for a particular telecommunications service in a newspaper of wide circulation in Saint Lucia.

(5) A telecommunications provider shall ensure that tariffs published for telecommunication services includes information relating to—

- (a) the name and address of the registered office of the telecommunications provider;



*Telecommunications (Retail Tariff) Regulations*

- (b) a clear description of the telecommunications service offered or provided by the telecommunications provider;
- (c) where any subscription or periodic rental charge is applicable, details of which telecommunication services are included within the charges;
- (d) standard rates and retail prices;
- (e) details of standard discounts and special and targeted tariff schemes in respect of-
  - (i) access,
  - (ii) all types of usage charges, and
  - (iii) any maintenance services;
- (f) details of any compensation or refund policy;
- (g) any types of maintenance offered;
- (h) standard contract conditions offered, including any minimum contractual period; and
- (i) any means for resolving disputes.

**Anti-competitive conduct**

8. (1) For the purposes of these Regulations, the Commission shall consider any of the following acts by a telecommunications provider to constitute anti-competitive conduct -

- (a) tying telecommunication services together in a manner that a customer is required when purchasing one telecommunications service to purchase another telecommunications service that the customer does not require;
- (b) providing to a customer more favourable retail prices that are not justified by differences in cost, if that customer acquires another telecommunications service that it does not require;
- (c) attempting to leverage a dominant position in one market so as to increase market share in another market where the telecommunications provider is not the dominant telecommunications provider, in order to gain an unfair advantage in that other market;
- (d) deliberately reducing the retail price for a telecommunications service without making corresponding reductions in the wholesale price for the telecommunications service, where the telecommunications provider also provides that telecommunications service at a wholesale price to a competing telecommunications provider, in order to gain an unfair advantage in the retail market;
- (e) agreeing with other telecommunication providers on retail prices, by fixing or otherwise agreeing, to manipulate retail prices for telecommunication services with other telecommunication providers;
- (f) attempting to impose restrictions on the retail price charged by another telecommunications provider, where the first telecommunications

*Telecommunications (Retail Tariff) Regulations*

provider supplies the other telecommunications provider with products or telecommunication services;

- (g) entering into an exclusive agreement with any person on certain terms and conditions, such that the exclusivity has or may have the effect of substantially lessening competition in a relevant market; or
- (h) doing anything or taking any action which has or is likely to have the effect of preventing, substantially restricting, or distorting competition in any market.

**Unregulated telecommunications service**

9. (1) A telecommunications provider shall ensure that it provides at least twenty-one days written notice to the Commission of any proposed change to a tariff for an existing unregulated telecommunications service.

(2) A telecommunications provider shall ensure that it notifies the Commission in writing of the introduction of any new unregulated telecommunication services within fourteen days of the introduction the telecommunication services.

**Tariff review**

10. (1) The Commission may review the tariff of an unregulated telecommunications service, in any case where—

- (a) a customer or a telecommunications provider requests a review in writing;
- (b) the Commission reasonably suspects that a tariff does not comply with regulations 5, 6 and 8;
- (c) the Commission has reasonable grounds to believe a proposed change to a tariff for an unregulated telecommunications service will have a significant impact on customers in Saint Lucia; or
- (d) ECTEL recommends a review.

(2) Where the Commission decides to review a tariff, the Commission shall, at least thirty days prior to the commencement of the review, publish a notice in a local newspaper of wide circulation in Saint Lucia and on the website of the Commission—

- (a) identifying the telecommunications provider, the telecommunications service and briefly describing the tariff to be reviewed;
- (b) stating the grounds for the review;
- (c) stating the address and other contact details of the Commission; and

*Telecommunications (Retail Tariff) Regulations*

- (d) informing the telecommunications provider and any interested persons that representations or submissions may be made to the Commission, subject to these Regulations or such other procedures as the Commission determines, acting on a recommendation from ECTEL.

(3) A telecommunications provider shall not implement a change to an existing tariff where a notice under subregulation (2) has been published by the Commission.

(4) Within thirty days of publication of the notice under subregulation (2), a telecommunications provider shall file the information setting out how the tariff complies with regulations 5, 6 and 8 and shall provide sufficient documentary evidence to enable the Commission to assess the application.

(5) The Commission shall review the tariff for the telecommunications service.

(6) Where the Commission determines that the rates are not compliant, the Commission, acting on the recommendation of ECTEL, may direct the telecommunications provider to –

- (a) take any necessary measures to bring the tariff into compliance with the regulations, bearing in mind the reasons for the non-compliance;
- (b) withdraw the tariff.

(7) Unless requested by the telecommunications provider, the Commission shall not review the same tariff, within six months of completion of a tariff review.

**PART III  
PRICE REGULATION REGIME**

**Division 1  
Price regulation regime**

**Compliance with price regulation regime**

11. (1) A telecommunications provider shall comply with the terms of any price regulation regime applicable to that telecommunications provider for the duration of the price regulation regime.

(2) A breach of the terms of a price regulation regime in effect for a telecommunications provider is deemed to be a breach of an agreement between the telecommunications provider and ECTEL.

**Procedure for adoption of price regulation regime**

12. (1) ECTEL may recommend a draft price regulation regime applicable to a dominant telecommunications provider, for adoption by the Commission.

*Telecommunications (Retail Tariff) Regulations*

(2) Prior to recommending the adoption of a draft price regulation regime, ECTEL shall provide at least thirty days notice to the dominant telecommunications provider by publishing a notice on the website of ECTEL and providing the dominant telecommunications provider with a copy of the proposed draft price regulation regime.

(3) Where ECTEL recommends the adoption of the draft price regulation regime—

- (a) the Commission shall, within fourteen days of receipt of the recommendation, initiate a public consultation by publishing a notice in the *Gazette*, at least one local newspaper of wide circulation in Saint Lucia and on the website of the Commission, setting out the details of the price regulation regime, and allow not less than ninety days for the submission of comments by interested persons;
- (b) the Commission shall adopt any recommendations by ECTEL for the procedures to be followed in the conduct of the public consultations;
- (c) any person likely to be affected by the price regulation regime is entitled to make representations to the Commission on any matters relevant to the determination of ECTEL and the Commission;
- (d) upon expiration of any public consultation period under paragraph (a), ECTEL may revise the price regulation regime, taking account of any relevant representations made under paragraph (c), and submit a final price regulation regime for adoption by the Commission, provided that, at any time after the conclusion of the public consultation period referred to in paragraph (a), ECTEL may recommend the adoption of the price regulation regime, with or without amendment, and the Commission shall either approve or disapprove it, without modification, within fourteen days of receipt of such recommendation.

(4) An approved price regulation regime shall be published by the Commission in the *Gazette*, a local newspaper of wide circulation in Saint Lucia and on the website of the Commission, and shall take effect fourteen days from the date of publication.

(5) The Commission shall not amend an approved price regulation regime unless ECTEL recommends such amendment.

**Division 2**  
**Regulated Telecommunications Service**

**Regulated telecommunications service**

13. (1) The Commission shall designate the following telecommunication services as a regulated telecommunications service—

- (a) a telecommunications service that is subject to a price regulation regime;

*Telecommunications (Retail Tariff) Regulations*

- (b) special telecommunications service;
- (c) a new telecommunications service that is a bundle that includes any regulated services.

(2) Notwithstanding subregulation (1), the following are deemed to be regulated telecommunication services, where—

- (a) there is only one telecommunications provider operating a public telecommunications network or providing a public telecommunications service;
- (b) a telecommunications provider has a dominant position in the relevant market;
- (c) the Commission detects anti-competitive pricing or acts of unfair competition;
- (d) the Commission considers it necessary to ensure that a telecommunications provider complies with the requirements of its licence;
- (e) such regulation is required in the public interest; or
- (f) the Commission considers that it is appropriate to do so.

(3) A telecommunications provider shall not provide a regulated telecommunications service except in accordance with a tariff approved under Part IV.

(4) A telecommunications provider shall not discontinue a regulated telecommunications service unless the Commission gives approval to do so.

(5) At least twenty-one days prior to the proposed discontinuance of a telecommunications service, a telecommunications provider shall file an application for approval under subregulation (4) setting out the reasons for discontinuing the telecommunications service.

(6) The Commission shall not unreasonably withhold approval of a telecommunications provider to discontinue a regulated telecommunications service.

**Special telecommunications service**

14. (1) The Commission may, acting on a recommendation of ECTEL, designate a service as a special telecommunications service by publishing a notice in the *Gazette*, a local newspaper of wide circulation in Saint Lucia, and on the website of the Commission, designating the service to be a special telecommunications service, and allow not more than thirty days for comments by interested persons.

(2) The Commission shall not designate an additional service as a special telecommunications service for the purposes of these regulations unless ECTEL recommends accordingly, and where ECTEL so recommends, a designation as a special

*Telecommunications (Retail Tariff) Regulations*

telecommunications service shall take effect thirty days after receipt of the recommendation by the Commission.

(3) Acting on a recommendation of ECTEL, the Commission may adopt special rules in respect of the provision of special telecommunications services, by providing at least thirty days notice to providers and customers by publication of such rules on the website of the Commission, and a telecommunications provider shall comply with such rules, once adopted.

**Dominance by public consultation**

15. (1) ECTEL may make a recommendation to the Commission that a telecommunications provider be declared a dominant telecommunications provider in a relevant market.

(2) Where ECTEL makes a recommendation under subregulation (1)—

- (a) the Commission shall initiate a public consultation by publishing a notice in the *Gazette*, a local newspaper of wide circulation in Saint Lucia, and on the Commission's website, declaring the telecommunications provider to be dominant, setting out the reasons for making the declaration and allow a period of not less than thirty days but not more than ninety days for the submission of comments by interested persons;
- (b) any person likely to be affected by the declaration is entitled to make representations to the Commission on any matter relevant to the assessment;
- (c) ECTEL may recommend the adoption of procedures by the Commission for assessing dominance, including—
  - (i) identifying information to be requested from the telecommunications provider,
  - (ii) the timeframes for the receipt of submissions from a telecommunications provider;
- (d) the Commission and ECTEL shall draw adverse inferences from the failure of the telecommunications provider to supply any requested information in respect of an application;
- (e) the Commission shall issue its final determination of market dominance no later than thirty days after receipt of a final recommendation by ECTEL.

(3) Notwithstanding subregulations (1) and (2), a telecommunications provider may consent in writing to being declared a dominant telecommunications provider in a relevant market, and where the telecommunications provider consents, the Commission shall not be required to undertake a public consultation to make a declaration.

*Telecommunications (Retail Tariff) Regulations*

(4) Where the Commission declares a telecommunications provider to be a dominant telecommunications provider under subregulations (1) and (2), or based on a consent to being declared dominant under subregulation (3), the declaration shall be published in the *Gazette* and at least one local newspaper of wide circulation in Saint Lucia, on the Commission's website and such declaration shall take effect fourteen days after publication.

(5) The Commission shall not declare a telecommunications provider as dominant without a recommendation from ECTEL.

**Presumed dominance**

16. (1) ECTEL may, after a public consultation on such terms and conditions as it may determine, recommend the adoption of a specified level of market share for the purposes of making a presumption of dominance by the Commission.

(2) A telecommunications provider with the specified level of market share in a relevant market is presumed to be a dominant provider in that market.

(3) Where a telecommunications provider is presumed dominant, the Commission shall impose a price regulation regime on the telecommunication services provided by that telecommunications provider in the relevant market.

**Declaration of dominance**

17. (1) Acting on a recommendation of ECTEL, the Commission may declare a telecommunications provider to be a dominant telecommunications provider with respect to a telecommunications network or a telecommunications service where, individually or jointly with others, it enjoys a position of economic strength affording the telecommunications provider the power to behave to an appreciable extent independently of competitors and customers.

(2) In declaring a telecommunications provider as a dominant telecommunications provider, the Commission shall consider the following—

- (a) the relevant market;
- (b) the market share of the telecommunications provider;
- (c) the power of the telecommunications provider to introduce and sustain a material retail price increase independently of competitors;
- (d) the degree of differentiation among telecommunication networks and telecommunication services in the market;
- (e) technology and market trends; and
- (f) any other matters the Commission considers relevant.

*Telecommunications (Retail Tariff) Regulations***Review of declaration**

18. (1) Where a telecommunications provider is declared a dominant telecommunications provider under regulation 15, presumed dominant under regulation 16 or deemed a dominant telecommunications provider under regulation 20 and the telecommunications provider considers that it is no longer dominant, the telecommunications provider may apply to the Commission to have its status as a dominant telecommunications provider reviewed on such terms and according to such procedures as the Commission determines acting on a recommendation from ECTEL.

(2) A telecommunications provider seeking a review of its status as a dominant telecommunications provider shall furnish the Commission with any supporting information and data that the telecommunications provider may regard as relevant to the review.

(3) Where necessary, the Commission may request additional information from the telecommunications provider.

(4) The Commission shall not consider an application to review a declaration of dominance, where such information or data has not been supplied by the telecommunications provider.

(5) Where the Commission after conducting a review is satisfied that a dominant telecommunications provider is no longer dominant in respect of a relevant market, the Commission shall publish a notice in the *Gazette*, at least one local newspaper of wide circulation in Saint Lucia and on the website of the Commission, declaring the telecommunications provider as no longer dominant in a particular market and the declaration takes effect from the date of publication.

(6) The Commission shall not change the status of a dominant telecommunications provider without a recommendation from ECTEL.

**Amendment of licence after declaration**

19. (1) For the purpose of imposing any special restrictions or obligations on a dominant telecommunications provider, ECTEL may, after a declaration of dominance or declaring a telecommunications provider to be no longer dominant, or a consent to a declaration of dominance as the case may be, recommend to the Minister responsible for telecommunications, that a dominant telecommunications provider's licence be amended to reflect its status as a dominant provider or that the telecommunications provider is no longer a dominant provider in a relevant market.

(2) Where the Minister accepts a recommendation made under subregulation (1), the Minister may amend the licence of the telecommunications provider as if the telecommunications provider had consented to the modification of the licence under the Act.



*Telecommunications (Retail Tariff) Regulations*

**Deemed dominant telecommunications provider**

20. (1) For the purposes of these Regulations, a telecommunications provider operating the only public telecommunications network or providing the only public telecommunications service is deemed a dominant telecommunications provider.

(2) Subject to the procedures outlined in regulation 20(1), where a telecommunications provider is deemed to be a dominant telecommunications provider in a relevant market, the Commission shall regulate the tariff for the telecommunication services provided by that telecommunications provider without undertaking a public consultation to declare the telecommunications provider as a dominant telecommunications provider.

(3) The Commission shall publish a notice in the *Gazette*, a newspaper of wide circulation in Saint Lucia and on the website of the Commission, of the names of all telecommunication providers deemed to be dominant telecommunication providers under these Regulations.

**Market trial**

21. (1) A dominant telecommunications provider may conduct a market trial for a new telecommunications service or a short-term promotion for a regulated telecommunications service which may involve a tariff change for the regulated telecommunications service, without prior approval of the Commission, where –

- (a) the telecommunications provider files a tariff and a description of the market trial or short-term promotion with the Commission and ECTEL, at least thirty days prior to the commencement of the market trial or promotion;
- (b) the market trial or short-term promotion does not exceed thirty days; and
- (c) the market trial or short-term promotion is not similar to a market trial or promotion that concluded less than sixty days earlier.

(2) A telecommunications provider may file the information under subregulation (1)(c) on an *ex parte* basis, and the Commission and ECTEL shall not disclose such information until such time as the telecommunications provider has commenced the market trial or short-term promotion.

(3) The Commission may, acting on a recommendation of ECTEL, order a dominant telecommunications provider not to conduct a market trial for a new telecommunications service or short-term promotion for a regulated telecommunications service, or may require the telecommunications provider to suspend or discontinue a market trial or short-term promotion in progress, where –

- (a) the telecommunications provider has not complied with subregulation (1); or

*Telecommunications (Retail Tariff) Regulations*

(b) the tariff for the market trial or short-term promotion contravenes regulations 5, 6 and 8.

(4) At the expiration of the market trial or short-term promotion, a telecommunications provider shall apply for approval under regulation 32 or 33, where it proposes to make the tariff permanent.

(5) A telecommunications provider shall not undertake a similar market trial or a short-term promotion more than three times within a twelve month period.

**Bundles**

22. (1) A dominant telecommunications provider applying for approval to introduce a tariff for a new bundle shall file additional information to satisfy the Commission that –

- (a) a bundle does not unfairly distort competition;
- (b) customers shall be able to obtain the individual telecommunications services comprising the bundle separately where they require;
- (c) the individual telecommunications services comprising the bundle or the bundle as a whole are not provided below cost;
- (d) bundles are not provided in an unduly discriminatory manner;
- (e) customers are likely to obtain benefits or the telecommunications provider is likely to obtain efficiencies from the availability of the bundle;
- (f) where the bundle relates to telecommunication services subject to a price regulation regime, the bundle complies with any rules contained in the price regulation regime; and
- (g) the tariff for any bundle otherwise complies with these Regulations.

(2) A telecommunications provider shall comply with any guidelines the Commission may adopt for tariffs related to bundles, provided that the guidelines shall not take effect until the expiration of thirty days from the date of publication of such guidelines on the website of the Commission.

**New telecommunications service**

23. (1) A dominant telecommunications provider that proposes to introduce a new telecommunications service may file an application to introduce such service on an *ex parte* basis, and the Commission and ECTEL shall not disclose the contents of the application until such time as the Commission has determined the categorization of the telecommunications service.

(2) Where a dominant telecommunications provider files an application under subregulation (1), it shall, in addition to complying with regulation 9, file with the Commission –

*Telecommunications (Retail Tariff) Regulations*

- (a) a clear description of the service and a justification for categorizing the service as a new telecommunications service; and
- (b) an assessment by the telecommunications provider as to whether the new telecommunications service should be designated as regulated or unregulated by the Commission;

and simultaneously provide a copy to ECTEL.

(3) The Commission may approve or reject the categorization of the telecommunications service as a new telecommunications service by the telecommunications provider in accordance with a recommendation from ECTEL.

(4) Where the Commission has determined the designation of the service as regulated, the Commission and ECTEL shall review the tariff for the service in accordance with regulation 25.

**PART IV  
TARIFF APPLICATION**

**Prohibition on tariff**

24. A telecommunications provider shall not –

- (a) change the tariff for a regulated telecommunications service in accordance with a price regulation regime;
- (b) change the tariff for a special telecommunications service; and
- (c) change the tariff for a telecommunications service where it is the sole provider of that telecommunications service;

unless the Commission gives approval to do so.

**Application**

25. (1) At least twenty-one days prior to the date the tariff takes effect, a telecommunications provider shall —

- (a) file a written application with the Commission-
  - (i) setting out how the tariff complies with regulations 5, 6 and 8 and any price regulation regime applicable to the telecommunications provider;
  - (ii) supported by sufficient, relevant documentary evidence to enable the Commission to assess the application; or
- (b) simultaneously provide a copy of the application to ECTEL; and
- (c) within seven days of filing the application for approval under subregulation (1)(a), publish a notice of the application in accordance with subregulation (2).

*Telecommunications (Retail Tariff) Regulations*

(2) A telecommunications provider shall ensure that a notice of an application filed with the Commission under subregulation (1) -

- (a) is published on the website of the telecommunications provider and in a local newspaper of wide circulation in Saint Lucia;
- (b) contains the name, address and contact details of the telecommunications provider and the Commission;
- (c) briefly describes the nature of the application and the proposed date the tariff or discontinuation is to take effect; and
- (d) informs interested parties that they may make submissions to the Commission at any time after the date of publication of the notice.

(3) In any case where a telecommunications provider applies to decrease the retail price for a regulated telecommunications service, it shall, in addition to complying with subregulation (1) or (2), file a declaration with the Commission to the effect that the proposed retail price is above the cost of providing the telecommunications service.

(4) Any person likely to be affected by the outcome of an application shall be entitled to make representations to the Commission on any matter relevant to the application, and the Commission shall ensure that copies of any comments or submissions from interested parties on the application are forwarded to the telecommunications provider making the application and to ECTEL within seven days of receipt.

(5) The Commission or ECTEL may request a telecommunications provider to file additional information relating to an application.

(6) The Commission and ECTEL shall draw adverse inferences from the failure of the telecommunications provider to supply any requested information in respect of an application.

(7) The Commission may require a telecommunications provider to apply for the approval of an application for a proposed change to an existing tariff, where a notice under regulation 15(2)(a) has been published by the Commission.

**Grant or refusal of approval of application**

26. (1) Within fourteen days of receipt of the application under regulation 25(1) or of receipt of any additional information under regulation 25(5), ECTEL shall make a recommendation to the Commission to grant or refuse to approve the application.

(2) In making its recommendation to the Commission, ECTEL shall take into account the following –

- (a) the tariff complies with regulations 5, 6 and 8;
- (b) in the case of a regulated telecommunications service subject to a price regulation regime, the tariff also complies with such regime; and

*Telecommunications (Retail Tariff) Regulations*

- (c) in the case of a special telecommunications service, the tariff complies with any special rules contained in the provider's licence or adopted by the Commission, in accordance with regulation 14(3).

(3) The Commission may approve an application to provide a tariff, with or without conditions.

(4) The Commission shall not approve any tariff where it is satisfied that such a tariff is contrary to the Act.

(5) Where on the recommendation of ECTEL the Commission refuses to approve an application, the Commission shall—

- (a) issue the decision in writing to the telecommunications provider; and
- (b) issue the reasons for the refusal of the application.

(6) The Commission shall not unreasonably withhold approval of an application from a telecommunications provider.

**Amendment or withdrawal of tariff**

27. (1) The Commission shall not approve or amend a tariff unless ECTEL recommends the approval or amendment of the tariff.

(2) Where the Commission refuses to approve an application for a tariff, the Commission may, acting on the recommendation of ECTEL, direct a telecommunications provider to—

- (a) take any necessary measures to bring the tariff into compliance with these Regulations, bearing in mind the reasons for the disapproval; or
- (b) withdraw the tariff to which the application relates;
- (c) prohibit a telecommunications provider from introducing the tariff.

**PART V**

**TREATMENT OF CUSTOMERS BY TELECOMMUNICATION PROVIDERS**

**Contract to contain minimum terms**

28. (1) A telecommunications provider shall ensure that a contract between a provider and a customer for providing telecommunications services, contains at least all of the following—

- (a) the identity and address of the telecommunications provider;
- (b) details of the telecommunication services provided, the quality of service levels offered and the time for initial connection;
- (c) details of maintenance services offered;

*Telecommunications (Retail Tariff) Regulations*

- (d) particulars of tariffs, and the means by which up-to-date information on applicable tariffs and maintenance charges may be obtained;
- (e) the duration of the contract, the conditions of renewal and termination of services and of the contract;
- (f) any applicable compensation or refund arrangements applicable where quality of service levels are not met; and
- (g) the method for initiating procedures for dispute settlement under the contract.

(2) Where a telecommunications provider intends to modify a condition in a contract with a customer, which in the opinion of the Commission is likely to be of material detriment to the customer, the telecommunications provider shall-

- (a) provide the customer with at least thirty days notice of its intention, detailing the proposed modification; and
- (b) inform the customer of the right to terminate the contract without penalty if the proposed modification is not acceptable to the customer.

**Billing**

29.(1) A telecommunications provider shall ensure that a bill to a customer in respect of the provision of any telecommunications service represents and does not exceed the true extent of any such telecommunications service actually provided to the customer.

(2) Where for any reason, a bill to a customer contains charges for telecommunication services which were not actually supplied by a telecommunications provider, the telecommunications provider shall reimburse the customer where the customer has paid the charges to the extent of any overpayment.

**Itemized bills**

30.(1) A telecommunications provider shall ensure that, in respect of every bill for telecommunication services, itemized bills are provided upon request and at no extra cost to customers.

(2) A telecommunications provider shall ensure that bills are itemized to a sufficient level of detail to enable a customer to-

- (a) verify the charges itemized in the bill; and
- (b) monitor and control the customer's usage and expenditure for the services concerned.

*Telecommunications (Retail Tariff) Regulations*

(3) A telecommunications provider shall not provide an itemized bill where-

- (a) the telecommunications provider provides the relevant telecommunications service on a pre-paid basis;
- (b) the customer has an alternative means, free of charge, of adequately monitoring the customers' usage and expenditure; or
- (c) the customer does not request an itemized bill.

(4) The Commission may issue directions in order to specify the level of itemization a telecommunications provider is required to provide.

**Disconnection**

31. (1) A telecommunications provider shall ensure that any measures taken to secure payment by a customer or to effect disconnection of a telecommunications service to a customer-

- (a) is proportionate and not unduly discriminatory;
- (b) provides adequate notice in advance of a consequent service disruption or disconnection; and
- (c) confines any service disruption or disconnection to the service concerned, as far as technically feasible.

(2) A telecommunications provider shall ensure that it provides at least thirty days notice to a customer of its intention to effect a service disruption or disconnection of any service as a result of non-payment.

(3) Except in cases of fraud, persistent non-payment or late payment, a telecommunications provider shall not disconnect, refuse to supply or refuse to reconnect a telecommunications service to a customer, due to non-payment of another telecommunications service by such customer.

(4) Notwithstanding subregulation (3), a telecommunications provider shall not supply or reconnect a telecommunications service to a customer where-

- (a) it is not technically feasible to provide the telecommunications service independently of another service; and
- (b) the customer has not paid any outstanding bills and or any applicable reconnection fees, in respect of the other service.

*Telecommunications (Retail Tariff) Regulations*

(5) Except with the written authorization of the Commission, a telecommunications provider shall ensure that reconnection to a telecommunications service is not conditional upon the payment of charges in respect of any period during which such telecommunications service was not provided, pursuant to a disconnection.

**PART VI  
MISCELLANEOUS**

**Decisions and directions of the Commission**

32. (1) The Commission may issue written decision or direction to a telecommunications provider for the purposes of compelling compliance with these Regulations and a telecommunications provider shall comply with any such decisions or directions, once issued.

(2) Unless otherwise specified, the Commission shall ensure that any decisions or directions of the Commission made under these Regulations are published on its website.

**Referral to High Court**

33. Where a telecommunications provider refuses to comply with any decision or direction by the Commission under these Regulations, the Commission may apply to a judge of the High Court for an order compelling the telecommunications provider to comply with the decision or direction of the Commission and for such costs and other relief as the Court allows.

**Written recommendation from ECTEL**

34. ECTEL shall provide a written recommendation where required to make a recommendation to the Commission.

**Extension of timeframes**

35. The Commission may extend the period of time, whether fixed by these Regulations or otherwise, for doing anything required or permitted to be done pursuant to these Regulations, or in proceedings before the Commission or under its decisions.

**Issuance of guidelines**

36. The Commission may from time to time, and after consultation with ECTEL, publish guidelines on any aspect of these Regulations on its website, and such guidelines may be of general application or specific to a proceeding.

**Revocation**

37. The Telecommunications (Tariff) Regulations, Cap.8.11 are revoked.



*Telecommunications (Retail Tariff) Regulations***Savings**

38. (1) A price regulation regime that is approved by the Commission before these Regulations come into force continues as an approved price regulation regime under these Regulations.

(2) Where, as of the date of these Regulations coming into force, a telecommunications provider and ECTEL have agreed on a price regulation regime, all services designated as regulated in that price regulation regime are deemed to be regulated telecommunication services for the purposes of these Regulations, and all services designated as unregulated in that price regulation regime are deemed unregulated telecommunications services for the purposes of these Regulations.

(3) The Commission shall, after consultation with ECTEL, extend the effective date of an existing price regulation regime, until such time as a new or revised price regulation regime has been adopted.

(4) Where an application for approval of a price regulation regime is filed with the Commission before these Regulations come into force, the Commission shall consider the application at the date that these Regulations come into force as if the application was filed under these Regulations.

Made this 26<sup>th</sup> day of November, 2015.

**JAMES FLETCHER,**  
*Minister responsible for telecommunications.*