

## **Annex D**

*“International electronic communications access to essential facilities at Cable Landing Stations regulations”*

**Recommendation of the Eastern Caribbean Telecommunications Authority**

**(ECTEL)**

**To the National Telecommunications Regulatory Commission**

**To consult on a Draft**

***“International electronic communications access to essential facilities  
at Cable Landing Stations regulations”***

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SCHEDULE 1: CABLE LANDING STATION-REFERENCE INTERCONNECTION AND ACCESS OFFER –  
REQUIRED PROVISIONS 17

**Part I**  
**Preliminary**

**1. Citation and commencement**

- 1) These Regulations may be cited as Cable Landing Stations (Access) Regulations, 20[●]
- 2) These Regulations shall come into operation on [Date]

**2. Interprétation**

- 1) In these Regulations unless the context otherwise requires –

“**Act**” means the Electronic Communications Act, 20[●];

“**access facilitation**” means access or interconnection, as the case may be, to the essential facilities, including landing facilities for submarine cable, at cable landing station provided by a CLS Licensee to an Eligible Operator to enable the operator to:

- (a) access capacity belonging to it on any one of the cables connected to the cable landing station , or
- (b) access capacity held by third parties - including the CLS Licensee - on any of the cables connected to the cable landing station;

“**backhaul circuit**” means a domestic telecommunications link which connects a cable landing station to the infrastructure or equipment of an Eligible Operator at its premises;

“**Cable Landing Station Licensee**” means a Licensee operating a submarine cable landing station (“**CLS Licensee**”);

“**Cable Landing Station-Reference Access Offer**” or “**CLS Reference Interconnection and Access Offer**” means a document containing the terms and conditions of access facilitation and co-location services at the cable landing stations for specified levels of international submarine cable capacity;

“**capacity**” means the international submarine cable capacity:

- (a) in the submarine cable system landing at the cable landing station in [ECTEL Contracting State];
- (b) acquired either on ownership basis or lease basis by an Eligible Operator;
- (c) activated by the owner of the submarine cable system or a member of consortium of a submarine cable system;

“**co-location or co-localisation**” means the facilities and resources, including building space, power, cooling, security and maintenance services, offered by a CLS Licensee to an Eligible Operator;

**“Eligible Operator”** means an undertaking which is entitled to request access to a cable landing station, with the intention of being an operator of electronic communications network or a provider of electronic communications services duly authorized in [ECTEL Contracting State], and includes Internet service providers and Internet Exchange Points;

**“Grooming Service”** means breaking down higher capacity outputs from the submarine cable at a place or point at which it terminates into the lower capacity channels for connection to the backhaul circuits of an Eligible Operator;

**“indefeasible right of use”** or "IRU" means the right to use the capacity on a long term lease, for example for the period for which the submarine cable remains in effective use under an agreement entered into between the capacity owner and an Eligible Operator in respect of which maintenance cost incurred becomes payable in any circumstances during the period of validity of such agreement;

**“specified international submarine cable”** means a submarine cable having international submarine cable capacity landing at a cable landing station in [ECTEL Contracting State];

**“Submarine Cable”** or **“Submarine Cable System”** means a physical, signal bearing medium installed in a marine environment for the routing of electronic communications;

**“submarine cable landing station”** or **“cable landing station”** or **“CLS”** means technical installations for the landing and operation of a submarine cable;

**“virtual co-location”** or **“co-localisation”** means the connection to the CLS by a link between a remote or virtual co-location point and the CLS which shall be located outside the CLS, either adjacent to the station or at a reasonably distant location and at which point an Eligible Operator is authorized to install its equipment so as to access the submarine cable capacity from the CLS;

(2) A word or expression that is used in these Regulations and is also used in the Act shall have in these Regulations the same meaning as it has in the Act unless the contrary intention appears.

### **3. Objective**

The objective of these Regulations is to set out conditions for fair access to international bandwidth with the view to supporting the development of a competitive electronic communication market in [ECTEL Contracting State] and ensuring significant reductions in international communication charges in [ECTEL Contracting State].

### **4. Scope of Application**

These Regulations shall apply to every Licensee operating submarine cable landing stations in [ECTEL Contracting State] for any cable landing station which it operates [ECTEL Contracting State]

## Part 2 -

### Access to Cable Landing Station and related international submarine cable capacity

#### 5. Obligations of CLS Licensees

- 1) Every CLS Licensee in the [ECTEL Contracting State] shall—
  - a) provide, on fair and non-discriminatory terms and conditions, at its cable landing station, access services including co-location services to an Eligible Operator in the [ECTEL Contracting State] requesting access to international submarine cable capacity on a submarine cable system;
  - b) interconnect specified international submarine cables landing at its cable landing station in accordance with the provisions of these Regulations;
  - c) provide landing facilities for submarine cables at its CLS to an operator that has been granted a license to operate a CLS under the rules applicable in ECTEL Contracting State];
- 2) A CLS Licensee in the [ECTEL Contracting State] shall provide Eligible Operators the option to access capacity on an IRU basis and on a lease basis.

#### 6. Transparency Obligation

- 1) Every CLS Licensee in [ECTEL Contracting State] shall submit to the Commission, within sixty (60) days from the date of commencement of these Regulations, a document containing the terms and conditions of access facilitation and co-location services, namely the CLS Reference Interconnection and Access Offer, including landing facilities for submarine cables at its cable landing stations, for specified international submarine cable capacity in accordance with the provisions of these Regulations for the approval of the Commission.
- 2) A CLS Licensee, which comes into existence after the commencement of these Regulations, shall submit, three (3) months before the cable landing station commences operations, the CLS Reference Interconnection and Access Offer in respect of the CLS to the Commission for its approval.
- 3) Every CLS Reference Interconnection and Access Offer shall include co-location services and shall be prepared in accordance with the Schedule 1.

#### 7. Submission of Reference Access Offer to the Commission

- 1) The Commission shall ensure that the CLS Reference Interconnection and Access Offer is compliant with the Act and these Regulations.
- 2) The Commission, upon the recommendation of ECTEL, shall approve the CLS Reference Interconnection and Access Offer within sixty days of the date of its submission to the Commission.

- 3) If the Commission, upon the recommendation of the ECTEL, is of the opinion that the CLS Reference Interconnection and Access Offer requires modifications so as to protect the interests of Licensees or consumers of the telecommunications sector, or to promote or ensure orderly growth of the telecommunications sector or the CLS Reference Interconnection and Access Offer has not been prepared in accordance with the provisions of these Regulations, the Commission may, after giving the CLS Licensee concerned an opportunity to be heard, require the operator to modify the offer submitted by it.
- 4) Pursuant to sub-regulation (3), the CLS Licensee shall make the modifications required by the Commission and submit, within fifteen days of receipt of requirement for the modifications, the said offer after incorporating the modifications, to the Commission for review and approval.

#### **8. Publication of the CLS Reference Interconnection and Access Offer**

- 1) Within 7 days of approval of a CLS Reference Interconnection and Access Offer, the CLS Licensee shall publish its offer -
  - a) on its website;
  - b) by making printed and electronic copies of the offer available to an Eligible Operator upon request.
- 2) Every CLS Licensee, desirous of making modification to its CLS Reference Interconnection and Access Offer published under these Regulations, shall submit the proposed modifications in the CLS Reference Interconnection and Access Offer for the prior approval of the Commission.
- 3) The provisions of these Regulations, which govern the approval of the CLS Reference Interconnection and Access Offer, shall, mutatis mutandis, apply to the modifications of the CLS Reference Interconnection and Access Offer approved by the Commission.

### **Part 3**

#### **Cable Landing Station Agreements**

#### **9. Application for access to Cable Landing Station and related international submarine cable capacity**

- (1) Every Eligible Operator desirous of accessing international submarine cable capacity on a submarine cable system may make an application in writing to a CLS Licensee, and which shall contain the following details:
  - (a) name and address of the company;
  - (b) billing address;
  - (c) contact person (name, phone number, email; );
  - (d) licence date and number;

- (e) reference capacity details including speed (STM-1/STM-4/STM-16/ STM-64 etc.) and number of capacity units;
  - (f) indefeasible right of use or lease;
  - (g) duration, in the case of a lease;
  - (h) if necessary, details of backhaul circuit provider and domestic link including local loop;
  - (i) any other details that the Commission may require.
- (2) Every CLS Operator shall, within a period of ten days after receipt of the application for access to international submarine cable capacity and to cable landing station facilities, send to the applicant confirmation of its ability to provide the access and details of required testing to be undertaken for provision of the access to the applicant.
- (3) A refusal of the requested access by the CLS Licensee shall be duly substantiated and communicated in writing to the applicant and the Commission within the same period of ten days of receipt of the application specified in sub-regulation (2).

#### **10. Access Facilitation agreement**

- 1) After receipt of confirmation for access to international submarine cable capacity and to cable landing station facilities, an Eligible Operator that makes an application under regulation 9 shall enter into an access facilitation agreement with the CLS Licensee.
- 2) Where the CLS Licensee and the Eligible Operator fail to enter into an access facilitation agreement within two months of the initial application of the Eligible Operator requesting access, either of the two parties may refer the matter to the Commission, or to ECTEL, in accordance with regulation 24.
- 3) A CLS Licensee and an Eligible Operator shall not enter into an access facilitation agreement unless the agreement is approved by the Commission acting in accordance with the advice of ECTEL pursuant to the provisions of the Act and applicable Regulations.
- 4) If the Commission, upon the recommendation of ECTEL, is of the opinion that the access facilitation agreement requires modifications so as to comply with the provisions of these Regulations or with the CLS Reference Interconnection and Access Offer, the Commission may require the parties to the agreement to modify it and the parties shall make the modifications and submit, within fifteen days of receipt of requirement for the modifications, the agreement after incorporating such modifications, to the Commission for approval.
- 5) An access facilitation agreement with regard to access to international submarine cable capacity and to cable landing station facilities which entered in force before the commencement of these Regulations shall be amended to comply with these Regulations by a process in which the CLS Licensee shall, after the publication of its CLS Reference Interconnection and Access Offer, give an option to an Eligible Operator already connected to its CLS to make an application for access facilitation and colocation services in accordance with these Regulations.

## **11. Provision of Backhaul Circuit**

- 1) The CLS Licensee requested to provide access to international submarine cable capacity and to cable landing station facilities shall, in addition, provide to the Eligible Operator that makes an application under regulation 9, and upon the request of the Eligible Operator, a backhaul circuit between the CLS and the premises of the Eligible Operator if it is technically feasible to do so.
- 2) The CLS Licensee and the Eligible Operator shall conduct necessary tests according to a mutually agreed testing procedure, approved by the Commission in the absence of agreement between the parties, to permit the backhaul circuit to remain in a state of readiness for interconnection before the tests for reference capacity provisioning are carried out.
- 3) Nothing contained in sub-regulation (2) shall be construed to prevent the Eligible Operator requesting access to international submarine cable capacity and to cable landing station facilities from arranging the provision of backhaul circuit by another service provider who has been granted a license to do so in [ECTEL Contracting State].
- 4) Pursuant to sub-regulation (3), where another service provider is requested to provide a backhaul circuit, the CLS Operator shall facilitate the interconnection between the Eligible Operator and the said service provider at the cable landing station in providing the backhaul circuit.

## **12. Testing of Capacity proposed to be acquired by Eligible Operators**

- 1) The CLS Licensee shall, upon successful testing of the backhaul circuit to the cable landing station, complete all necessary steps for access facilitation to the capacity, which shall include -
  - a) testing of links;
  - b) interconnecting the capacity to the backhaul circuit or equipment of the Eligible Operator co-located at the cable landing station or at a virtual co-location.
- 2) The CLS Licensee, and the Eligible Operator who makes an application under regulation 9, shall conduct necessary tests, in accordance with the testing procedure for the provisioning of Capacity from CLS to the other country's submarine cable station, within ten days or such other time as may be mutually agreed upon by them.
- 3) The CLS Licensee shall—
  - a) send a request, after taking the steps referred to in sub-regulation (2), to the Eligible Operator for taking control of the required capacity; and
  - b) declare the capacity as commissioned by the Eligible Operator.

## **13. Access Facilitation and Backhaul Circuit Charges**

- 1) For the purposes of accessing the landing facilities at a cable landing station, the access facilitation charges shall be:
  - a) payable by the Eligible Operator to the CLS Licensee; and

- b) determined on fair and reasonable conditions to be agreed by the two parties and based on cost-oriented rates compliant with these Regulations and the Act
- 2) Backhaul Circuit Charges shall be cost oriented, determined on the basis of the direct cost of network elements involved in its provision.
- 3) The access facilitation agreement, including, where appropriate, the provision of backhaul circuit shall, subject to the payment of the operation and maintenance charges by the Eligible Operator to the CLS Licensee, continue to be in force during the period of the indefeasible right of use or on an annual lease basis, as the case may be.
- 4) If required by an Eligible Operator, the CLS Licensee shall allow the Eligible Operator to provide grooming services at its CLS, namely to install equipment in the colocation room which allows local operators to access capacity at a rate which is below the capacity acquired or rented by the Eligible Operator.

#### **14. Guarantees of Service Quality Levels**

- 1) The CLS Reference Interconnection and Access Offer of each CLS Licensee referred to in regulation 6 shall contain:
  - a) conditions on standard quality of services that are provided and enhanced quality of subscribable service options; and
  - b) reasonable response times to requests for supply of services and resources.
- 2) The access agreement to be concluded between a CLS Licensee and an Eligible Operator, referred to in regulation 10, shall include:
  - a) level of commitment,
  - b) associated service incentive mechanisms and compliance; and
  - c) penalties in case of default.
- 3) The Commission shall ensure that the CLS Licensee provides Eligible Operators with a service level guarantee that is consistent with international best practices and equivalent to those applied to their own services or to those of their subsidiaries or partners.

#### **15. Increase in Capacity Requirement by Eligible Operator**

Where additional capacity is required at the CLS by the Eligible Operator, the CLS Operator shall, subject to technical feasibility, on receipt of the request and related payment from the Eligible Operator, facilitate the provision of the additional capacity in accordance with the provisions of these Regulations relating to access to capacity.

#### **16. Termination or Discontinuance of Access Facilitation**

- 1) The access facilitation agreement, including, as the case may be, the provision of a backhaul circuit, may be terminated by the CLS Licensee -

- a) if the Eligible Operator ceases to hold a valid licence either by way of termination or suspension;
  - b) where the arrangement to acquire capacity by way of an indefeasible right of use or on the basis of an annual lease, as the case may be, from a submarine cable system owner or a member of the submarine cable system consortium or from a cable consortium, is terminated by the Eligible Operator;
  - c) where the operation and maintenance charges due and payable by the Eligible Operator remain unpaid beyond the time period allowed by the access agreement, provided that a notice of not less than thirty days had been given to the Eligible Operator and if there is no response by the Eligible Operator to the notice by the fifteenth day.
- 2) Upon the termination of an access facilitation agreement, including, as the case may be, the provision of a backhaul circuit, upon the request of an Eligible Operator, prior to the expiry of the access agreement term, the charges payable by the Eligible Operator shall not exceed access facilitation and backhaul circuit charges payable for a three-month period.

#### **Part 4 - Co-location**

#### **17. Co-location**

- 1) As provided by section 52 (1) of the Act, every Eligible Operator who makes an application to access international submarine cable capacity on a submarine cable system under regulation 9 shall make, simultaneously, another application to the CLS Licensee for co-location at the CLS, if the co-location is required by the Eligible Operator to access international submarine cable capacity on any submarine cable system from the CLS Licensee, and shall enclose with the application the following:
- a) equipment layout plan at the co-location site at which co-location space is requested;
  - b) purpose of accessing submarine cable capacity;
  - c) details of co-location equipment proposed to be installed;
  - d) details of space and power requirements;
  - e) floor loading of the co-location equipment;
  - f) specification of the transmission tie-cable required;
  - g) type of optical fibre cable to be used;
  - h) address, phone number, fax and e-mail of applicant at which communications may be sent by the owner or operator of the cable landing station; and
  - i) any other requirement for co-location of equipment.
- 2) The CLS Licensee shall, within ten days after receipt of the application made under sub-regulation (1), acknowledge receipt and communicate the acceptance or rejection of the application to the requesting Eligible Operator referred to in sub-regulation (1).
- 3) A refusal of the requested co-location by the CLS Licensee shall be duly substantiated and communicated in writing to the applicant and the Commission within the same period of ten days of receipt of the application.

- 4) After receipt of acceptance from the CLS Licensee under sub-regulation (2), the requesting Eligible Operator referred to in sub-regulation (1) shall, within five days from the date of receipt of the confirmation, enter into a co-location agreement with the CLS Licensee.
- 5) If the CLS Licensee and the requesting Eligible Operator fail to enter into an agreement within **fifteen days** of the initial application of the Eligible Operator who makes an application under sub-regulation (1), either of the two parties may refer the matter to the Commission or to ECTEL in accordance with regulation 24.
- 6) A CLS Licensee and an Eligible Operator shall not enter into a co-location agreement unless the agreement is approved by the Commission acting in accordance with the advice of ECTEL pursuant to the provisions of the Act and applicable Regulations.
- 7) Where the Commission, upon the recommendation of ECTEL is of the opinion that the co-location agreement requires modifications so as to comply with the provisions of these Regulations and with the CLS Reference Interconnection and Access Offer, the Commission may require the parties to the agreement to modify it and the parties shall make the modifications and submit, within fifteen days of receipt of the requirement for the modifications, the agreement after incorporating the modifications, for approval to the Commission.

#### **18. Allocation of alternative co-location space**

- 1) If the CLS Licensee is unable to offer, due to space limitations or any other valid reason, the physical co-location requested by Eligible Operator, who makes an application under regulation 11 (1), the CLS Licensee shall take reasonable measures to give an option of virtual co-location to enable the CLS Licensee to have access facilitation services.
- 2) If an Eligible Operator who makes an application under regulation 11 (1) is offered, due to space constraints at cable landing station or any other valid technical reason, a virtual co-location facility by the CLS Licensee, the CLS Licensee shall make available required elements, including ducts within the building, for the purpose of running an interconnection cable within the cable landing station for which the charges shall be payable and borne by the Eligible Operator.

#### **19. Additional co-location space and co-location equipment**

- 1) If the Eligible Operator intends to replace, modify or re-arrange any of its co-location equipment in the co-location space or install additional co-location equipment in the co-location space, it shall submit a request in writing to the CLS Licensee for the modification, rearrangement or additional co-location equipment or replacement.
- 2) Pursuant to sub-regulation (1), the CLS Licensee shall communicate, within ten days of receipt of the request, its decision for the replacement, modification or re-arrangement

and, as the case may be, the amount of additional charges or other requirements related to the replacement, modification or re-arrangement.

## **20. Authorization for physical access for co-location space at cable landing station**

- 1) If the application made by the Eligible Operator under regulation 9 has been accepted by the CLS Licensee, the Eligible Operator shall have the right to access the equipment co-located at the CLS or, as the case may be, at a virtual co-location point.
- 2) Pursuant to the access rights in sub-regulation (2), the Eligible Operator shall communicate the names of its personnel to the CLS Licensee, which shall allow them access to the co-location space and issue the authorization for physical access.

## **21. Co-location charges**

- 1) For the purpose of accessing co-location services at the Cable Landing Station or, as the case may be, at the virtual co-location point, co-location charges shall be:
  - d) payable by the Eligible Operator to the CLS Licensee;
  - e) based on cost-oriented rates.
- 2) The charges shall be determined on the basis of the cost of the facilities dedicated to the co-location service, the space and usage of the Eligible Operator, and on fair and reasonable conditions, compliant with these Regulations and the Act, to be agreed by the two parties.

## **22. Termination of co-location agreement**

- 1) The CLS Licensee may, in the event of the closure of a co-location site or the expiry of the lease of capacity, terminate the lease of co-location space after giving to the Eligible Operator a notice, in writing, of not less than twelve months from such closure or before the expiry of the lease of capacity, as the case may be, and the termination of the lease of co-location space shall take effect from the date specified in the notice. In case of closure of the co-location site, the CLS Licensee shall work closely with the Eligible Operator in order to find suitable alternatives that will allow the capacity service to continue to operate.
- 2) The CLS Licensee may, in addition to the circumstances specified in sub-regulation (1), terminate the lease of co-location space if-
  - a) the Eligible Operator ceases to hold a valid licence;
  - b) the Eligible Operator uses or allows to be used the co-location space in contravention of the Regulations or directions issued under the Act or any other law for the time being in force or in contravention of the terms of the licence;
  - c) the Eligible Operator removes or abandons its co-location equipment or keeps such space idle for a period of more than ninety days;
  - d) in relation to paragraphs (b) and (c), a notice of not less than thirty days has been given to the Eligible Operator.

- 3) Notwithstanding sub-regulations (1) and (2):
  - (a) the CLS Licensee shall provide a minimum period for co-location to ensure a reasonable balance between the need to encourage competition and that of safeguarding a reasonable return on the investments made for the co-location;
  - (b) the Commission shall ensure that the minimum period of commitment is not less than three years and the co-location offer can be extended beyond the initial period.
- 4) Upon termination of the lease of co-location space by the request by an Eligible Operator prior to the expiry of the term of the lease, any charges payable by the Eligible Operator shall not exceed co-location and backhaul circuit charges payable for a six-month period.
- 5) Upon expiry or termination of the lease of co-location space of the Eligible Operator, the operator shall remove its co-location equipment within a fixed time period agreed with the CLS Licensee and upon failure to do so the CLS Licensee may:
  - a) remove the co-location equipment and restore the co-location site to its original condition;
  - b) charge the Eligible Operator for the costs that it has incurred for the work done under paragraph (a).
- 6) Without prejudice to the rights of the CLS Licensee, the Eligible Operator may negotiate with the CLS Licensee or another member of the consortium of the submarine cable system, as the case may be, for any restoration arrangement including alternate transmission medium, if necessary.

## **Part 5**

### **Control by the Commission**

#### **23. Tariff monitoring**

- 1) Charges for access facilitation, co-location, backhaul circuit and related operation and maintenance fees shall be calculated in accordance with the principle of cost orientation set out in regulations 13 and 21 and the cost accounting methods defined by the Commission upon the recommendation of ECTEL.
- 2) On the basis of the cost calculation framework set out by the Commission, upon the recommendation of ECTEL, CLS Licensees shall determine the charges to be paid by the Eligible Operators, taking into account direct costs involved in the provision of access facilitation, international capacity, co-location services and backhaul circuits, and submit them to the Commission.
- 3) In submitting the CLS Reference Interconnection and Access Offer referred to in regulation 6 for approval to the Commission, CLS Licensees shall set out the details of

cost for each network element, costing methodology and calculation sheets or any other element for calculation.

- 4) The charges to be paid by the Eligible Operators shall be approved by the Commission on the recommendation of ECTEL on the basis of the cost accounting methods established and published by the Commission upon the recommendation of ECTEL in accordance with sub-regulation (1).
- 5) The charges payable under these Regulations shall be subject to the prior approval of the Commission to ensure transparency, fairness and reasonableness and to prohibit CLS operators from adopting an arbitrary approach to setting various charges.
- 6) If a CLS Licensee fails to provide the required documentation to facilitate the determination of costs that are payable, the Commission may make its own cost calculations in order to estimate costs on the basis of information at its disposal and determine tariffs of the charges to be paid by the Eligible Operators, as the case may be.
- 7) If the Commission and ECTEL lack sufficient information or have not yet implemented the cost accounting methods referred in sub-regulation (1), the Commission may, upon the recommendation of ECTEL and in a transitional manner, determine the tariffs of the charges to be paid by the Eligible Operators on the basis of international benchmarks.
- 8) The Commission, upon the recommendation of ECTEL, shall impose on offers by CLS Licensees the rates which it has determined under the sub-regulations (6) and (7).

#### **24. Dispute resolution**

- 8) A dispute involving the conclusion, the execution or the termination of an agreement related to access facilitation, including the provision of capacity, co-location services or the provision of backhaul circuit between a CLS Licensee and an Eligible Operator, shall be submitted to the Commission, subject to the requirement that the Commission is satisfied that the parties have made reasonable efforts to amicably settle the dispute prior to submitting the dispute.
- 9) Pursuant to a dispute specified in sub-regulation (1), the Commission may-
  - c) refer the matter to ECTEL for an opinion; or
  - d) with the consent of the parties, refer the matter to ECTEL for mediation.
- 10) Where the Commission refers a dispute to the ECTEL for an opinion, the provisions of the Dispute Regulations 200[●], the Interconnection Regulations 200[●] and any other relevant law shall be applicable.
- 11) Where the Commission, with the consent of the parties to the dispute, refers the dispute to ECTEL for mediation, the ECTEL shall, in consultation with the parties, ensure that mediation commences within 2 weeks of the referral and, upon its conclusion, provide the Commission and the parties to the dispute with a report within three months after the receipt of the request by the Commission for mediation.

12) (1) The report specified in sub-regulation (4) shall include only:

- d) whether the mediation failed; or
- e) the parties came to an agreement; and
- f) where the parties came to an agreement, the terms of such agreement.

13) If mediation fails, at the end of the period of three months referred in sub-regulation (4), any of the parties to the dispute may lodge a petition with the Commission to resolve the dispute under the conditions set out in the sub-regulation (3).

## Part 6

### Miscellaneous

#### **25. Compliance**

- 5) The Commission may issue written orders or directions to a Licensee for the purposes of compelling compliance with these Regulations and a Licensee shall comply with any such orders or directions, once issued.
- 6) Where a Licensee refuses to obey any order, 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 Licensee to comply with the order, decision or direction of the Commission and for such costs and other relief as the Court may allow;
- 7) A Licensee that breaches or fails to comply with the provisions of these Regulations, or any order or direction of the Commission under these Regulations, shall be, upon a determination by the Commission or the Court, as the case may be, in breach of the terms and conditions of its License, and the Commission or the Court shall be empowered to impose the sanctions permitted by the Act, Regulations or other law prescribed by the Act.
- 8) A person who fails to provide any information requested by the Commission pursuant to these Regulations, commits an offence under section [●] of the Act.

#### **26. Publication**

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

**SCHEDULE 1: CABLE LANDING STATION-REFERENCE INTERCONNECTION AND ACCESS OFFER –  
REQUIRED PROVISIONS**

**I. RATES**

Details of Charges	Amount payable
<b>1. Access Facilitation Charges</b>	
1.1 In relation to infeasible rights of use or lease of capacity, one time access facilitation charges per unit of capacity are payable on execution of the access facilitation agreement	
Charges	Per Unit Capacity
(i)	STM-1
(ii)	STM-4
(iii)	STM-16
(iv)	STM-64
1.2 In relation to a lease, recurrent access facilitation charges per annum per unit of capacity are payable upon execution of the access facilitation agreement and thereafter before the due date (anniversary of commissioning date) of each subsequent year.	
Charges	Per Unit Capacity
(i)	STM-1
(ii)	STM-4
(iii)	STM-16
(iv)	STM-64
<b>2. Annual Operation &amp; Maintenance (O&amp;M) charges</b>	
2.1 In relation to infeasible rights of use (not lease of capacity) charges per annum per unit are payable upon the execution of the access facilitation agreement and thereafter before the due date (anniversary of commissioning date) of each subsequent year.	
Charges	Per Unit Capacity
(i)	STM-1
(ii)	STM-4
(iii)	STM-16
(iv)	STM-64

<b>3. Co-location charges:</b> (Please specify items and their charges separately i.e. building space charges per square feet, duct & cable runway charges, distribution frame, AC power including standby AC Power, DC power, air conditioning including other physical / environmental services, security and site maintenance etc.)	
<b>4. Cancellation charges</b>	
<b>Items</b>	<b>Per Unit Capacity</b>
(i)	STM-1
(ii)	STM-4
(iii)	STM-16
(iv)	STM-64
<b>5. Any other charges payable by the Access Seeker or details not already specified in serial numbers 1 to 5 of this Form</b>	

*Note: The CLS Licensee shall provide to the Commission with the costing elements considered, their costs and costing methodology employed along with a calculation sheet in arriving at all charges submitted above for international submarine cable capacity access, O&M charges, Restoration Charges, co-location facilities, cancellation charges, etc., when the CLS Licensee submits the CLS-Reference Access Offer as per regulation 7 of these Regulations.*

**II. TIME PERIOD FOR PROVISION OF ACCESS FACILITATION SERVICES AND CO-LOCATION SERVICES BY OWNER OF CABLE LANDING STATION**

- 1) Time period for provision of access facilitation services
- 2) Time period for provision of co-location services

**III. SERVICE LEVEL AGREEMENT**

(...)

**IV. CO-LOCATION EQUIPMENT INSTALLATION AND MAINTENANCE GUIDELINES**

(...)

**V. SCHEDULES**

- 1) **Form of application for request to Access Facilitation at Cable Landing Station for International Submarine Cable Capacity**
  
- 2) **Form of Request for Co-Location Facility and Services**