

SCHEDULE 2

PUBLIC UTILITIES COMMISSION

TELECOMMUNICATIONS INFRASTRUCTURE AND FACILITIES SHARING REGULATIONS (AMENDED), 2010

Short title.

1. These Regulations may be cited as the “Infrastructure Sharing Regulations, 2010”.

Application and Scope.

2. Subject to the provisions of the Public Utilities Commission Act and the Belize Telecommunications Act, these Regulations shall govern the sharing of infrastructure and facilities of licensed telecommunications services providers in Belize.

Interpretation.

3. (1) In these Regulations, unless the context otherwise requires:

“infrastructure” means any lines, towers, poles, masts, antennae, radios, tunnels, subways, pits, conduits, cables, wires, buildings, properties, equipment or other network components owned and operated by a licensee for use in connection with a telecommunication network

“facility” means any service arrangements, rights of way, and any infrastructure owned and/or operated by a licensee for use in connection with a telecommunication network

“written direction” means any reasonable written instructions given to or any reasonable written obligation placed on or reasonable thing required of licensees in relation to any rights and obligations of such licensees in relation to these regulations

- (2) A word or phrase not defined in these Regulations but defined in the Public Utilities Commission Act or the Belize Telecommunications Act shall have the meaning assigned to it in such Acts.

General obligations of licensees to negotiate infrastructure and facilities sharing.

4. All licensees shall:
 - a) have a right and, when requested, an obligation to negotiate the sharing of infrastructure and facilities with each other for the purpose of providing public telecommunications services, or for any other purpose deemed to be in the public interest by the Commission.
 - b) negotiate in good faith with each other on matters concerning the sharing of infrastructure and facilities;

- c) neither withdraw from nor impair arrangements for the sharing of infrastructure and facilities once already granted, unless authorized to do so by the Commission.
5. Nothing in section 4 shall prevent a licensee from negotiating and entering into infrastructure and facilities sharing arrangements with persons not licensed to provide telecommunications services, provided that such arrangements do not result in any licensee being denied access to share such infrastructure and facilities, save and except where such arrangements exist prior to the request made by any licensee for the sharing of such infrastructure and facilities.

Obligation to provide information.

6. (1) Licensees or persons or companies are required to provide to licensees to whom a request is made to share infrastructure or facilities, upon being so requested, such information about the intended use of the infrastructure or facilities requested to be shared, as is necessary and sufficient for appropriate assessment of the request by the licensee to whom the request is made to share infrastructure or facilities.
- (2) The information referred to in subsection (1) shall be supplied within fourteen (14) days of the request to do so unless an extension is granted by the Commission.
- (3) All information provided under this section shall be used for the purpose of facilitating infrastructure and facilities sharing only, and shall not be disclosed to any third party without the expressed written consent of the information provider.

Non-discrimination.

7. (1) A licensee shall provide infrastructure and facilities sharing under the same terms and conditions as that offered to any other licensee to which it provides infrastructure and facilities sharing.
- (2) Where a licensee fails to comply with subsection (1), it shall within fourteen (14) days of being so required by the Commission, prove to the satisfaction of the Commission that it is not technically feasible to provide infrastructure and facilities sharing under the same terms and conditions as it provides to any other licensee.

Negotiation of infrastructure and facilities sharing agreements.

8. Licensees shall use all reasonable endeavours to conclude an infrastructure and facilities sharing agreement within twenty-eight (28) days of the receipt of a request for infrastructure and facilities sharing. The Commission may consider any failure to do so to constitute a dispute and intervene to resolve the dispute in accordance with the Belize Telecommunications Act or any Orders or regulations made by the Commission.
9. A request for infrastructure and facilities sharing is deemed to have been made on the day it is delivered to any of the registered offices of a licensee to whom the request is made for infrastructure and facilities sharing.
10. Every infrastructure and facilities sharing agreement shall include rates, fees and charges for the sharing of such infrastructure and facilities.

Rates, fees and charges.

11. Rates, fees and charges in respect of infrastructure and facilities sharing shall be based on costs determined in accordance with such costing methodologies, models or formulae as the Commission may from time to time prescribe by Order or Regulations.
12. Where there is a failure of any licensee to determine rates, fees and charges pursuant to section 11, the Commission may prescribe infrastructure and facilities sharing rates, fees and charges with reference to such costing benchmarks that comport with internationally accepted standards for such benchmarks.

Submission of agreements for approval.

13. (1) Every infrastructure and facilities sharing agreement or modification thereto shall be submitted to the Commission for its approval within seven (7) days of signature by the parties, and such approval shall not be unreasonably withheld by the Commission.

(2) The Commission may at any time after giving reasonable opportunity for representation to be made to the Commission, require that licensees modify or amend infrastructure and facilities sharing agreements.

(3) The Commission may allow for or require the implementation of an infrastructure and facilities sharing agreement in part or in whole, or under such terms and conditions that the Commission may prescribe, where it has required modification or amendment or has denied approval, the reasons for which, in the opinion of the Commission, is not material enough to affect the performance of the infrastructure and facilities sharing arrangement, or for which any potential loss or damage are quantifiable and repairable, and the Commission may impose such provisions on either party for compensation to either party that has suffered any loss and damage as a result of the infrastructure and facilities sharing arrangement.

Implementation of infrastructure and facilities sharing agreements.

14. The implementation of any infrastructure and facilities sharing agreement approved by the Commission shall be effected within twenty-eight (28) days of such agreement being approved by the Commission, provided that the Commission may extend such period.
15. Licensees shall use all reasonable endeavours to achieve operational infrastructure and facilities sharing pursuant to section 14.

Denial of infrastructure and facilities sharing request.

16. (1) Every licensee who denies an infrastructure and facilities sharing request from any other licensee shall, by the end of the next business day, notify the Commission of the denial and reasons for denial.

(2) The Commission may require the licensee denying the request to provide justification for such denial in a form prescribed by the Commission, including allowing reasonable access to infrastructure and facilities to the Commission, its representatives or agents to properly assess any claims made by the licensee in the denial of the infrastructure and facilities sharing request.
17. Where in the opinion of the Commission the denial of request made by a licensee is not justified, the Commission may direct the licensee who denied the request to grant the

infrastructure and facilities sharing in a time and on such terms and conditions as the Commission may prescribe.

Disputes resolution.

18. Any disagreements or disputes over infrastructure and facilities sharing charges, terms and practices of public telecommunications services providers shall be submitted to the Commission for resolution, and the Commission shall seek to resolve such disagreements or disputes in any reasonable manner it thinks is best calculated to achieve the objectives of these regulations, the Belize Telecommunications Act and the Public Utilities Commission Act.
19. Where any disagreements or disputes are likely to arise between licensees with respect to infrastructure and facilities sharing, the matter may be referred to the Commission for consultation and guidance, on the agreement of both parties, prior to either party or both submitting the matter to the Commission as a dispute.
20. Any written directions given to licensees by the Commission in the resolution of any disagreements or disputes over infrastructure and facilities sharing charges, terms and practices shall be binding on any party to any such disagreements or disputes.

Violations.

21. Any contravention of any provisions of these Regulations by any telecommunications services licensee shall constitute a material breach of any conditions of the licence granted to such licensee by the Commission that requires such licensee to comply with the provisions of any Order or Regulations made by the Commission or that requires such licensee to provide infrastructure and facilities sharing when requested, and shall be punishable under section 48 of the Belize Telecommunications Act.