

THE TELECOMMUNICATIONS (UNIVERSAL SERVICE)
REGULATIONS, 2015

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LEGAL NOTICE NO. 63

REPUBLIC OF TRINIDAD AND TOBAGO

THE TELECOMMUNICATIONS ACT, CHAP. 47:31

REGULATIONS

MADE BY THE MINISTER WITH THE RECOMMENDATION OF THE AUTHORITY
UNDER SECTION 78(1) OF THE TELECOMMUNICATIONS ACT AND
SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

THE TELECOMMUNICATIONS (UNIVERSAL SERVICE)
REGULATIONS, 2015

PART I

PRELIMINARY

1. These Regulations may be cited as the Telecommunications Citation
(Universal Service) Regulations, 2015.

2. In these Regulations—

Interpretation

“access gap” means those geographic areas where it is not
economically feasible for a concessionaire to establish
networks and services;

“basic telecommunications services” means the set of
telecommunication services as defined in Schedule 1; Schedule 1

“Board” means the Board established pursuant to section 5 of the
Act;

“community access centres” means centres located in such
Universal Service areas as may be identified by the
Authority which provides members of such areas with a
point of access to basic telecommunication services;

“concessionaire” means a person who has been granted a
concession under the Act to—

(a) operate a public telecommunications network; or

(b) provide a public telecommunications service, either
together or separately and is a contributor under
these Regulations;

“Contractual Universal Service” means the provision on contract
by retailers of universal service;

“contributor” means a concessionaire or other person as
identified in Schedule 2 who contributes to the Universal Schedule 2
Service Fund in accordance with these Regulations;

“disability” means—

- (a) total or partial loss of a bodily function;
- (b) total or partial loss of a part of the body;
- (c) malfunction of a part of the body including mental or psychological disease or disorder; or
- (d) malformation or disfigurement of part of the body or any restriction or lack, resulting from an impairment of ability to perform an activity in the manner or within the range considered normal for a human being;

“Mandatory Universal Service” means the requirement in law to provide universal service;

“population groups within the access gap” means such persons or population groups, as may be identified by the Authority from time to time, for whom it is economically challenging to access basic telecommunications services;

“reverse auction” means the competitive bidding process in which the Authority evaluates bids submitted by concessionaires based on the criteria identified by the Authority as necessary for the successful implementation of a Universal Service initiative and on the extent to which the cost of implementation requires funding from the Universal Service Fund. The concessionaire who requires the least funding from the Universal Service Fund and who meets the criteria identified by the Authority shall be successful;

“Universal Service Fund” means the account opened pursuant to section 53(6);

“Universal Service initiative” means an initiative identified by the Authority to provide and to increase access and affordability to basic telecommunications services for the benefit of—

- (a) persons resident in Universal Service areas; and
- (b) population groups within the access gap,

the implementation of which may be identified by the Authority as mandatory under Part IV or which may be implemented by a concessionaire in accordance with the terms and conditions of a contract with the Authority under Part V of these Regulations; and

“Universal Service area” means a geographical area in which the Authority has determined that it is not economically feasible to provide basic telecommunications services and in which a Universal Service initiative under Part V may be implemented.

PART II
UNIVERSAL SERVICE FUND AND IMPLEMENTATION OF
UNIVERSAL SERVICE INITIATIVES

3. (1) The Universal Service Fund shall be administered by the Authority to administer the Universal Service Fund.

(2) The Authority shall collect contributions to the Universal Service Fund pursuant to regulation 5.

(3) The Authority shall disburse payments from the Universal Service Fund pursuant to—

- (a) the Mandatory Universal Service initiatives in accordance with the recurrent charges set out in Schedule 3 and with the procedure set out in regulation 17; or
- (b) the Contractual Universal Service initiatives in accordance with the procedure set out in regulation 20.

4. The Universal Service Fund shall consist of contributions which shall be utilized for the implementation of Universal Service initiatives in accordance with these Regulations.

5. (1) A contributor shall, in accordance with directions issued by the Authority, contribute annually such percentage of its gross annual revenue to the Universal Service Fund as set out in Schedule 2 and in such manner as may be prescribed by the Authority.

(2) The Authority may review every three years the percentage of total gross annual revenue that a contributor shall contribute to the Universal Service Fund under subregulation (1).

6. Where the total contribution to the Universal Service Fund in any financial year, is in the opinion of the Authority, not sufficient to fully implement the Universal Service initiatives scheduled for implementation in that year, the Authority may reschedule the implementation of such Universal Service initiatives for a later period as it sees fit.

7. Where the total contribution to the Universal Service Fund in any financial year exceeds the annual cost of implementation of the Universal Service initiatives scheduled for implementation in that year, the Authority may undertake any of the following:

- (a) apply the excess towards the funding of the Universal Service initiatives scheduled for the implementation during the following financial year;

- (b) expand the budget for the implementation of the Universal Service initiatives scheduled for implementation during the following financial year; or
- (c) implement incentive schemes to provide relief to contributors from the obligation to contribute to the Universal Service Fund or such other programme for the benefit of contributors, for such period of time as the Authority may see fit, such relief to be in proportion to the basis of the contribution made by the contributor.

Prohibition against charging users the cost of contribution 8. A contributor shall not charge or otherwise pass on to users, without the approval of the Authority, any portion of the cost of any contribution made or due to be made to the Universal Service Fund in accordance with these Regulations.

Submission of financial statements 9. A contributor shall submit its audited financial statements to the Authority within six months after the end of the contributor's financial year.

Issuance of invoices 10. Notwithstanding regulation 9, the Authority shall, upon the commencement of the Authority's financial year subsequent to the coming into effect of these Regulations, issue the first invoice to the contributor based upon the contributor's latest available audited financial statements.

Calculation after issuance of first invoice 11. (1) The Authority shall, after the issue of a first invoice, issue subsequent invoices at the commencement of each financial year of the Authority based upon the contributor's latest available audited financial statements.

(2) Any difference between the sum invoiced and that which, based upon submission of audited financial statements pursuant to regulation 10 should have been invoiced for the relevant period, shall be recovered or refunded, as may be required, in the next invoice issued to the contributor.

Payment of contribution 12. The contributor shall pay to the Authority the amount specified in the invoice issued pursuant to this regulation within twenty-eight days of the date of the invoice.

Submission of unaudited financial statements 13. (1) Where a contributor is not required by law to produce annual audited financial statements and make a written application to the Authority for a waiver of the obligation to submit same to the Authority prior to the end of the contributors accounting period, the Authority may, by written notice to the contributor, permit such contributor to submit financial statements which have not been audited in relation to the requirement under regulation 9 in respect of a particular accounting period.

(2) Unaudited financial statements submitted under subsection (1) shall be certified by the Chief Financial Officer of the contributor who shall be recognised by the Institute of Chartered Accountants of Trinidad and Tobago.

PART III

OVERSIGHT OF THE UNIVERSAL SERVICE PROGRAMME

14. (1) The Authority shall establish a Universal Service Committee with the responsibility for the selection, execution and monitoring of implementation of Universal Service initiatives under regulations 16 and 18. Oversight of Universal Service Committee

(2) The Universal Service Committee shall comprise of the Chief Executive Officer and divisional heads of the Authority.

(3) The persons under subsection (2) shall be persons with experience and qualifications in the areas of law, accounting, economics and engineering.

(4) At any meeting of the Committee, one more than half the members of the Committee shall constitute a quorum.

(5) Decisions of the Committee shall be by a majority of votes of the members of the Committee who are present and voting.

(6) The Universal Service Committee shall report to the Board and shall implement overall policy guidance from the Board on the Universal Service initiatives, and the funds to be collected and disbursed from the Universal Service Fund.

(7) Notwithstanding the generality of subregulation (1), the Committee may, in the execution of its functions—

- (a) identify the underserved communities and population groups in Trinidad and Tobago in need of access to affordable basic telecommunications services;
- (b) organise and coordinate stakeholder group meetings to provide ideas and feedback when there is deliberation on Contractual Universal Service initiatives to be implemented;
- (c) provide cost estimates for proposed Universal Service projects;
- (d) make recommendations to the Board with respect to the selection of Universal Service initiatives and the priority to be given to Universal Service initiatives to be undertaken annually;

- (e) make recommendations to the Minister for the implementation of Universal Service Fund projects, pursuant to section 28 of the Act;
- (f) develop objectives, budgets and operational plans for the management of the Universal Service Fund in accordance with guidelines developed by the Authority;
- (g) ensure the Universal Service Fund remains financially sound such that monies are available for the implementation of projects;
- (h) ensure collection of the contributions from concessionaires in accordance with the percentages stated in Schedule 2;
- (i) review the adequacy of the Universal Service Fund contributions received every three years and submit recommended changes, if any, to the Board for approval and consideration of the Minister;
- (j) recommend the amounts that should be disbursed from the Universal Service Fund within a timely manner and to whom the funds should be disbursed in accordance with the Authority's tendering rules and the Universal Service contracts signed with the concessionaires;
- (k) ensure that financial accounts, reports and records are prepared and published;
- (l) manage the competitive tendering process for the allocation of projects; and
- (m) monitor and oversee the implementation of all Universal Service Fund projects to ensure that all obligations are fulfilled within the required time frames.

(8) In any given year, the costs of the administrative activities undertaken by the Universal Service Committee, shall be a charge on the Universal Service Fund.

(9) The Administrative charge on the Universal Service Fund shall not exceed fifteen per cent of the funds collected for that period.

Committee
may procure
professional
services

15. (1) The Universal Service Committee may procure, in accordance with the Telecommunications Tender Rules of the Authority, professional services to support the implementation of Contractual Universal Service initiatives.

(2) The cost of professional services under subregulation (1) shall be a charge on the Universal Service Fund.

(3) The charge for professional services under this section for any Universal Service initiative shall not exceed the maximum set out in regulation 20.

PART IV

MANDATORY UNIVERSAL SERVICE INITIATIVES

16. (1) All concessionaires shall implement the Mandatory Universal Service initiatives identified in Schedule 3, in accordance with guidelines published by the Authority from time to time.

(2) Where a Mandatory Universal Service initiative is eligible for a refund from the Universal Service Fund, the concessionaire which implements such Mandatory Universal Service initiative shall apply to the Authority in accordance with the procedure outlined in regulation 17.

(3) A concessionaire shall implement at its own cost those Universal Service initiatives identified as mandatory for all concessionaires but which are not eligible for a refund from the Universal Service Fund.

(4) The Minister may, on the advice and recommendation of the Authority, by Order, amend Schedule 3.

17. (1) Where a concessionaire undertakes a Mandatory Universal Service initiative identified in Schedule 3 which is associated with a refund charged to the Universal Service Fund, then such concessionaire shall submit to the Authority in the form approved by the Authority, the relevant details associated with the Mandatory Universal Service initiative for which the refund is sought within three months of its submission of accounts in accordance with regulation 9.

(2) The details under subregulation (1) shall include—

- (a) the names of the customers so supported;
- (b) the Universal Service initiative for which the refund is sought;
- (c) associated customer eligibility reference;
- (d) records of utilisation of each basic service;
- (e) records of charges for such utilisation; and
- (f) records of billed charges for such utilisation.

(3) The Authority shall indicate its agreement with or rejection of the submission under subregulation (1), within twenty-eight days of the receipt of the submission and shall refund any agreed sums in accordance with its procedures.

PART V

CONTRACTUAL UNIVERSAL SERVICE INITIATIVES

Identification
of Contractual
Universal
Service
projects

18. (1) The Authority shall, from time to time, issue an invitation for submission of Universal Service projects, by publication in the *Gazette* and at least two daily newspapers in daily circulation in Trinidad and Tobago.

(2) An invitation under subregulation (1) shall invite concessionaires and relevant Ministries and stakeholder groups to identify proposals for projects to be considered as Contractual Universal Service initiatives.

(3) Proposals under this regulation shall be limited to projects which—

- (a) targets the provision of infrastructure development areas identified within the access gap by the Authority;
- (b) targets the resolution of structural deficiencies in the national telecommunications grid;
- (c) can be implemented by all similarly situated concessionaires in a given market or sub-market; and
- (d) meet other conditions as specified by the Authority in the notice.

(4) Interested concessionaires, Ministries and stakeholder groups may submit proposals within the time frame specified in the Notice.

(5) The Authority may consider proposals submitted under subregulation (4) in conjunction with projects proposed by the Authority pursuant to its evaluation of network coverage and service capacity.

(6) The Authority shall submit to the Minister its recommendations, in accordance with section 28 of the Act.

(7) Upon approval, modification or rejection of its recommendation by the Minister, the Authority shall publish the recommendation and, where applicable, the Minister's reasons for modification or rejection in respect thereof on its website for public viewing.

(8) Where a person who has made a submission pursuant to this regulation wishes to dispute the decision of the Minister, he may, within thirty days of the publication of such decision, request in writing, a review or reconsideration by the Minister of his decision, stating the grounds or reasons upon which such review or reconsideration is requested.

(9) The Minister shall determine such a review or reconsideration as soon as practicable but in any event no later than sixty days after the receipt of the request for the review or reconsideration and shall notify the applicant in writing, of his decision.

19. (1) In implementing the Contractual Universal Service initiatives^{Submission of bids for the implementation of Contractual Universal Service initiatives} planned for a given fiscal period, the Authority shall prepare and issue Requests for Proposals in accordance with the Telecommunications Tender Rules for the selected Universal Service initiatives identified by the Authority to be granted funding from the Universal Service Fund for that fiscal period.

(2) A concessionaire may submit a bid in accordance with the directions set out in any Request for Proposals that may be issued by the Authority from time to time pursuant to subregulation (1).

(3) Only a concessionaire authorised to provide the service or services that comprise a Universal Service initiative may submit a bid under subregulation (1) to be granted funding to implement the Universal Service initiative.

(4) Where more than one bid is submitted under subregulation (1), the Authority shall use the reverse auction method to evaluate the bids submitted by concessionaires.

20. (1) In response to a request from the concessionaire^{General rules regarding disbursement of funds associated with Contractual Universal Service initiatives} implementing a Contractual Universal Service initiative, the Authority may disburse mobilisation funds to support project initiation.

(2) Mobilisation payments under subregulation (1) shall be no greater than fifteen per cent of the estimated cost of the project.

(3) Professional fees associated with any Contractual Universal Service initiative shall be no greater than six per cent of the total cost of the initiative.

(4) The executing concessionaire shall submit in a form approved by the Authority and for a period not to exceed a bimonthly schedule, status reports, on the progress of Contractual Universal Service initiatives to the Universal Service Committee.

(5) Where the Authority receives a report under subregulation (4), it shall publish the report within two weeks of its receipt on its website.

Recurrent charges associated with a Contractual Universal Service initiative

21. (1) Where the Universal Service Committee determines, based on the projections of the Authority or on the presentation of relevant facts and trends by the concessionaire, that aspects of the recurrent costs associated with a completed project implemented as a Contractual Universal Service initiative may require continued subsidisation from the Universal Service Fund, the Universal Service Committee may authorise an annual charge to the Universal Service Fund to cover such a subsidy.

(2) Where the Universal Service Committee undertakes the action outlined in subregulation (1), it shall ensure that the concessionaire enters into an agreement with the Authority outlining, *inter alia*—

- (a) the terms and conditions by which the recurrent costs are subsidised;
- (b) performance obligations of the concessionaire to encourage increased service utilisation to enhance economic viability of the initiative;
- (c) reporting obligations of the concessionaire to encourage accurate and timely measurement of the uptake of basic telecommunications services in the area in which the Universal Service initiative project is implemented;
- (d) the criteria through which the Universal Service Committee may determine that a recurrent operation of the Universal Service initiative has become sustainable and no longer requires supplemental financing from the Universal Service Fund; and
- (e) that the Authority may seek to recover funds provided to the concessionaire where there is non-compliance with the Universal Service initiative and where funds received under the regulation were not utilised for the specified purpose.

Obligation to implement contractual Universal Service initiative

22. (1) The concessionaire who submits a bid under regulation 19 and is successful shall be awarded an offer or the grant of funding from the Universal Service Fund and shall, upon acceptance of the offer—

- (a) enter into and be bound by a contract of service with the Authority for the implementation of the Universal Service initiative;
- (b) have the obligation under these Regulations to implement the Universal Service initiative in accordance with the terms and conditions set out in the contract of service entered into with the Authority under paragraph (a); and
- (c) be granted from the Universal Service Fund such funding for which the concessionaire had bid on the terms and conditions set out in the contract of service entered into with the Authority under paragraph (a).

(2) Where no concessionaire submits a bid under regulation 19, the concessionaire who is authorised to provide the service or services that comprise the Contractual Universal Service initiative and who, in the opinion of the Authority, has the highest available network capacity and requires the least infrastructural build out to roll out services for that particular Contractual Service initiative—

- (a) may enter into and be bound by a contract of service with the Authority for the implementation of the Universal Service initiatives; and
- (b) shall have the obligation under these Regulations to implement the Contractual Universal Service initiatives in accordance with the terms of conditions set out in the contract of service entered into with the Authority under paragraph (a).

23. (1) The Authority shall only authorize payments out of the Disbursement of funds pursuant to a Contractual Universal Service initiative where invoices are submitted by the concessionaire.

(2) Invoices shall be in the form approved by the Authority.

(3) Concessionaires requesting disbursement of funds pursuant to a Contractual Universal Service initiative shall submit invoices to the Committee for certification in keeping with the conditions of the contract.

(4) A concessionaire under this regulation shall submit reports to the Authority containing information to be specified by the Authority to ensure timely certification of invoices.

PART VI

MISCELLANEOUS

24. (1) The Authority may provide an amount not exceeding five per cent of the value of the contributions to the Universal Service Fund in any financial year towards the provision of services as approved by the Authority to community access centres which are established by the State or State agencies.

(2) Approved services for which funding may be provided pursuant to subregulation (1) shall be targeted towards subsidising the cost of the following services only:

- (a) telephone connectivity to service a sated usage volume;
- (b) internet bandwidth as defined by the Authority from time to time;
- (c) facsimile services; and
- (d) such other services as the Authority may approve.

Publication of
Reports

25. (1) The Authority shall publish on a biennial basis a Universal Service Implementation Report by June of the financial year of the Authority which shall contain—

- (a) an outline of the Mandatory Universal Service initiatives and Contractual Universal Service initiatives and the proposed budget for the implementation of such Universal Service initiatives for the succeeding two years;
- (b) a report on the progress of the current Universal Service initiatives being funded by the Universal Service Fund; and
- (c) the objectives identified by the Authority for the regulation of Universal Service for the succeeding financial year or any revision of such objectives.

(2) The Authority shall publish annually a Universal Service Fund Accounting Report no later than three months after the end of the financial year of the Authority which shall contain an account on the collection and disbursement of funds from the Universal Service Fund for the preceding financial year.

Offences

26. (1) A concessionaire who has an obligation to implement a Contractual Universal Service initiative under regulation 22 and who has failed to implement such initiative to the satisfaction of the Authority—

- (a) may be deemed to be in breach of the contract of service entered into with the Authority under regulation 22 and the Authority may seek such redress as may be available to it in accordance with the terms of the contract; and
- (b) commits an offence under section 71 of the Act and is liable to such penalties prescribed therein.

(2) A contributor who fails to contribute to the Universal Service Fund in accordance with these Regulations commits an offence under section 65(g) of the Act and is liable to such penalties prescribed therein.

(3) A person who fails to comply with any of the provisions of these Regulations commits an offence under section 71 of the Act and is liable to such penalties prescribed therein.

SCHEDULE 1

(Regulations 2 and 5)

BASIC TELECOMMUNICATION SERVICES

1. Voice Telecommunications Services
 - call origination
 - call termination
2. Access to Emergency Services
3. Directory Assistance
4. Free Itemised Billing
5. Internet Service Provision at throughputs (to be defined by the Authority from time to time).

SCHEDULE 2

(Regulations 2 and 5)

CONTRIBUTIONS TO THE UNIVERSAL SERVICE

*Percentage of
Gross Revenues*

Types of Service Provided

%

- | | |
|-----|---|
| 0.5 | Domestic telecommunications services or operation of domestic telecommunications network facilities. |
| 1 | International telecommunications service or operation of international telecommunicaitons network facilities. |

SCHEDULE 3

[Regulations 3(3), 16 and 17]

MANDATORY UNIVERSAL SERVICE INITIATIVES

Universal Service Initiative	Eligibility for Universal Service Funding	Recurrent Charges to Universal Service Fund	Other Notes
1. Special provision of approved assistive technology for persons with disabilities to support use of basic telecommunications services.	Yes	Limit to set up costs, capital and recurrent costs to be defined by the Authority from time to time.	Customers eligibility determined in accordance with the Ministry with responsibility for social development and other agencies as determined by the Authority.
2. Provisions of public access modes to basic telecommunications services to be made available at all— (a) public schools; (b) public libraries; (c) hospitals; and (d) police stations.	No		Pay phones and/or internet kiosks.
3. The provisions of universal access connectivity to the following locations: (a) all public schools; (b) all public libraries; and (c) all public hospitals.	No		Universal Access Rate of up to 40% of commercial rates as defined by the Authority for— (a) telephone services; (b) internet bandwidth (as defined by the Authority from time to time); and (c) facsimile services.

Dated this 5th day of May, 2015.

R. T. GRIFFITH
Minister of Science and Technology