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CONTENTS

No.

Page

LEGAL NOTICES

212	Lesotho Telecommunications Authority933
	(Administrative, Procedural and Service Provision)	
	Rules 2000	

LEGAL NOTICE NO 212 OF 2000
LESOTHO TELECOMMUNICATIONS AUTHORITY
(ADMINISTRATIVE, PROCEDURAL AND SERVICE PROVISION) RULES 2000)

Arrangement of Rules

CHAPTER I – INTRODUCTION

PART 1

Preliminary

<i>Rule</i>		<i>Page</i>
1.	Citation and Commencement	933
2.	Applicability	933
3.	Definitions	933
4.	Notice of Inquiry	938
5.	Familiarity with Rules	938

CHAPTER II - ORGANIZATIONAL AND FINANCIAL PROCESSES

PART 2

Organisation of the Authority

6.	Delegation of Authority	939
7.	Board Meetings	939
8.	Committees	939
9.	The Registrar	939
10.	Communication with the Authority	940
11.	Change in particulars of the Authority	940
12.	Office hours of the Authority	940
13.	Internal financial procedures	941
14.	Certificates	941
15.	Personnel of the Authority	941

CHAPTER III — RECORD-KEEPING PROCEDURES**PART 3*****Procedures and Requirements for Filing***

16.	Copies of original documents	942
17.	Filing documents	942
18.	Frivolous filings	942

CHAPTER IV - COMPLAINT PROCEEDINGS

PART 4

Representations

- | | | |
|-----|------------------------------|-----|
| 19. | Representations to Authority | 943 |
|-----|------------------------------|-----|

PART 5

Consumer Complaint Proceedings

- | | | |
|-----|-----------------------------------|-----|
| 20. | Consumer complaints | 943 |
| 21. | Decision on disposition statement | 944 |
| 22. | Complaints proceedings | 945 |
| 23. | Arbitration | 946 |

PART 6

Non-Consumer Complaint Proceedings

- | | | |
|-----|--|-----|
| 24. | Non-consumer complaints | 946 |
| 25. | Interconnection disputes | 946 |
| 26. | Pleadings requirements and limitations | 947 |

PART 7

Subscriber Complaints

- | | | |
|-----|-----------------------|-----|
| 27. | Subscriber complaints | 949 |
|-----|-----------------------|-----|

CHAPTER V -ADJUDICATION PROCESS

PART 8

Confidentiality of information

- | | | |
|-----|--|-----|
| 28. | Request for confidentiality | 951 |
| 29. | Burden of proof | 951 |
| 30. | Decision of the Authority on confidentiality | 952 |
| 31. | Non-disclosure agreement | 953 |

PART 9

Procedure for Pleadings

- | | | |
|-----|--------------------------------|-----|
| 32. | Timeliness of filings | 953 |
| 33. | Time | 953 |
| 34. | Reckoning of time | 953 |
| 35. | Filing periods for pleadings | 954 |
| 36. | Length of pleadings and papers | 954 |
| 37. | Extensions of time | 954 |

38.	Specifications for pleadings and papers filed with the Authority	955
39.	Verification of signatures	955
40.	Legal Representation	956
41.	Proof of service	956

PART 10

Procedure for Hearings

42.	Depositions	957
43.	Subpoenas	957
44.	Joint pre-hearing statement	957
45.	Pre-hearing conference	957
46.	Hearings	958
47.	Official Reporter	959
48.	Expert Examination	959
49.	Intervention	960
50.	Consolidation	960
51.	Withdrawal of papers	960
52.	Ex Parte Presentations	960
53.	Final Decisions	961
54.	Requests for reconsideration of Final Authority Decisions	962
55.	Requests for clarification of Final Authority Decisions	963
56.	Review of Authority Decisions	963

CHAPTER VI – LICENCING

PART II

Granting, Amending and Revoking Licences

57.	Licensing	964
58.	Licence conditions	964
59.	Application for licence	966
60.	Suspension and Revocation of licence	966
61.	Transfer of licence	966
62.	Lapse and Renewal of licence	967
63.	Licence modification procedures	967
64.	Licence fees	967
65.	Unlicensed services	968

PART 12

Obligations of Licensees

66.	Address of licensee	969
67.	Licensee report forms	969

PART 13

Spectrum Allocation

68.	Spectrum allocation proceedings	969
69.	Criteria for approval	970

70.	Revocation of approval order	970
71.	Assignment of Frequencies	970
72.	Obligations of licensees	971
73.	Transfer and assignment of station authorization	971
74.	Filing of applications	971
75.	Application and forms	972
76.	Filing procedures	973
77.	Defective applications	975
78.	Amendment or dismissal of applications	975
79.	Notice of violations	976
80.	Content of station records	976
81.	Form and retention of station records	977
82.	Prescribed forms	977
83.	Frequencies for field strength surveys or equipment demonstrations	977
84.	student authorization	978
85.	Promotion and development of new technologies	979

PART 14

Licenses For Radio Communication

86.	Station authorization required	979
87.	Transfer and assignment of station authorization	980
88.	Misuse of Frequencies and cross-ownership	980
89.	Temporary authorization	980
90.	Change in equipment	980
91.	Operation at a temporary location	981
92.	Discontinuation of station operation	981
93.	Station identification	981
94.	Suspension of transmission required	981
95.	Operator requirements	981
96.	Posting station licenses	981
97.	Operation during an emergency	982
98.	Inspection of stations	982
99.	Inspection and maintenance of towers and control equipment	982
100.	Notice of violations	982
101.	Experimental authorizations	983
102.	Experimental Authorizations - Scope of service	983
103.	Frequencies for the experimental radio service	983
104.	Experimental report	984
105.	Limited market studies	984
106.	International co-ordination	984
107.	Domestic frequency co-ordination	984

CHAPTER VII - TARIFFS AND RATES

PART 15

Tariff Rates Regulation

108.	Licensed Operators	985
109.	De-listed licensees	986

110.	Price Cap	986
111.	Application for approval of Tariff rates	987
112.	Decision	987
113.	Information obligations	987
114.	Investigation suspension or rejection of Tariff rates	988

CHAPTER VIII - INSPECTION, ENFORCEMENT AND FAIR TREATMENT

PART 16

Enforcement

115.	Investigative authority	989
116.	Inspection authority	990
117.	Enforcement of licence conditions	991

PART 17

Fair Competition and Equality of Treatment

118.	Violations of fair competition	992
119.	Proceedings in unfair competition matters	993

CHAPTER IX – INTERCONNECTION

PART 18

Interconnection

120.	Contents of interconnection agreements	994
121.	Non-discrimination	994
122.	Quality of service	995
123.	Negotiations in good faith	995
124.	Interconnection charges and charging structure	995
125.	Interconnection procedures	995
126.	Establishment and location of POIs	998
127.	Calling Line Identity (CLI)	998
128.	Modification suspension and termination	998
129.	Working groups	999
130.	Confidentiality	999
131.	Transparency of agreements	1000
132.	Commission action on Interconnection Disputes	1000
133.	Authority approval of interconnection agreements	1000
134.	Provision of fixed links	1001
135.	Facilities sharing	1001
136.	Roaming agreements	1002

CHAPTER X – EQUIPMENT

PART 19

Type-Approval of Terminal Equipment

137.	Categories of network and Terminal Equipment Requiring Type-Approval	1002
138.	Type-Approval Procedure	1003
139.	Applications for Provisional Type-Approval	1003
140.	Submission of Samples of Equipment for Testing	1004
141.	Effect of Provisional Type-Approval	1004
142.	Full Approval	1005
143.	Complaint procedures	1005

144.	Permission To Clear Custom	1006
145.	Customer Premises Equipment and Wiring	1006
146.	Ownership and Maintenance of CPE	1007

CHAPTER XI – GENERAL

PART 20

Entry Upon Land

147.	Access and use of public property	1008
148.	Access and use of private property	1009
149.	Access and use of existing conduits, towers, and other facilities	1010
150.	Requests for access and use of existing Government Facilities	1010

PART 21

Telecommunication Services Providers

151.	Rules for Telecommunication Service Providers	1010
152.	Payment of fees	1011

PART 22

Numbering Plan

153.	Compliance with National Numbering Plan	1011
154.	Numbering Proposals	1011
155.	Compliance with other Regulations	1012

PART 23

Conformity of all Licences with the Act

156.	Existing Licences	1012
157.	Submission of all existing Licences for Review	1013

LEGAL NOTICE NO 212 OF 2000**LESOTHO TELECOMMUNICATIONS AUTHORITY****(ADMINISTRATIVE, PROCEDURAL AND SERVICE PROVISION) RULES 2000**

Pursuant to Section 16 (2) of the Lesotho Telecommunications Authority Act 2000, the Authority makes the following Rules-

PART 1**PRELIMINARY****Citation and commencement**

1. These Rules may be cited as the Lesotho Telecommunications Authority (Administrative Procedural and Service Provision) Rules, 2000 and shall come into operation on a date of their publication in the Gazette.

Applicability

2. Unless otherwise stated, the Authority may not entertain or process any pleadings, applications, papers or filings of any kind not submitted in accordance with these Rules.

Interpretation

3. (1) For the purpose of these Rules, any word or phrase to which a meaning has been assigned in the Act has that meaning unless otherwise indicated;

“**applicant**” means any person who has applied to the Authority for a licence under any provision of the Act;

“**application**” means the filing with the Authority of a request for a licence under any provision of the Act;

“**authorized frequency**,” means the frequency assigned to a station by the Authority and specified in the instrument of authorization;

“**authorized power**” means the power assigned to a radio station by the Authority and specified in the instrument of authorization. The Authorized Power does not necessarily correspond to the power used by the Authority for purposes of its Master Frequency Record (MFR) and notification to the International Telecommunication Union;

“**calling line identity (CLI)**” means the information generated by a telecommunications system, which identifies the calling, number and forwards that information through that telecommunications system and an interconnected telecommunications system;

“**Chief Executive**” or Chief Executive Officer’ means the Chief Executive appointed under section 13 of the Act;

“complainant” means a person who has filed a complaint with the Authority in accordance with these Rules;

“consumer” means a natural person who is was or may in the future be a user of telecommunication services;

“customer” means a retail end user customer of the provider of a telecommunications service;

“customer service” means a telecommunications or related service, which is facilitated in whole or in part by interconnection;

“days” shall not include Saturday, Sundays and public holidays where reference is made to time not exceeding 10 days unless otherwise stated;

“decision-making personnel” means any Board member: officer or employee of the Authority who may reasonably be expected to be involved in formulating a decision, rule regulation or order in a proceeding;

“discovery” means a compulsory disclosure by a party to a proceeding, of facts or documents on which the other party wishes to rely;

“end user” means any person or entity that is was or may in the future be a user of telecommunication services;

“essential service” means an interconnect service declared by the Authority in writing to be an essential service for the purposes of the Rules;

“ex parte” means a presentation that, if written, is not served on the parties to the proceeding: or if oral is made without advance notice to the parties and without opportunity for them to be present;

“ex parte presentation” means a communication directed to the merits or outcome of a proceeding, including any attachments to a written communication, or documents shown in connection with an oral presentation directed to the merits or outcome of a proceeding, but does not include:

- (a) communications which are inadvertently or casually made;
- (b) communications by parties to an informal consumer complaint proceeding;
- (c) inquiries concerning compliance with procedural requirements if the procedural matters is not a substantive area of controversy in the proceeding;
- (d) presentations made with respect to issues raised in a notice of inquiry, unless the issues addressed in the presentation also address issues raised in a proceeding that are not excluded by this Rule;
- (e) statements made by decision-making personnel that are limited to providing publicly available information about pending proceedings; and
- (f) inquiries relating solely to the status of a proceeding, including inquiries as to the approximate time that action in a proceeding may be taken, unless that presentation constitutes a status inquiry which states or implies a view as to the merits or outcome of the proceeding or a preference for a particular party or which states why timing is important to a particular party or indicates a view as to the date by which a proceeding should be resolved, or which otherwise is intended to address the merits or outcome of a proceeding or to influence the timing of a proceeding;

“experimental radio service” means a service in which Radio waves are employed for purposes of experimentation in the radio art or for purposes of providing essential communications for research projects, which could not be conducted without the benefit of such communications;

“experimental station” means a station utilizing radio waves in experiments with a view to the development of science or technique;

“expert” means a person who has been appointed by the Board to assist it in the performance of its functions;

“file” means a file maintained by the Authority as the official record for matters filed and proceedings heard by the Authority;

“fixed service” means a radio-communication service between specified fixed points; **“fixed station”** means a station in the fixed service;

“further particulars” means additional information requested by the Authority, which may be necessary or helpful in the performance of its functions;

“harmful interference” means any radiation or any induction, which endangers the functioning of a radio navigation service or of a safety service or obstructs or repeatedly interrupts a Radio Service operating in accordance with the Table of Frequency Allocations and the Rules;

“interconnect capacity” means dedicated un-switched transmission capacity and other facilities for connecting the telecommunications systems of two telecommunications service providers so that telecommunications services may be passed efficiently between those systems;

“interconnect provider” means a provider of a telecommunications service who is required to provide interconnection under Section 23 of the Communications Act;

“interconnecting operator” means a provider of a telecommunication service who has interconnected or has requested that it be able to interconnect its telecommunications system to the telecommunications system of an Interconnect Provider;

“interconnection agreement” means an agreement (whether entered into before or after the date of these guidelines) in relation to the interconnection of telecommunication systems;

“interconnection information” means information in the possession or control of the Interconnect Provider that relates to an interconnection request and which may assist the Interconnecting Operator to better formulate its request for interconnection or plan, establish or maintain its telecommunication system or a telecommunication service for the purpose of interconnection which information includes but is not limited to:

- (a) technical, traffic and other relevant information;
- (b) system and facilities specifications; and
- (c) any material changes to that information or specifications which may impact on the Interconnecting Operator’s interconnection arrangements or the services it intends to provide to customers by means of that interconnection: -

“interrogatory” means any request in writing for information or particulars made to a party in a proceeding;

“intervener” means any person who has filed a notice of intervention as a matter of right or one who has been granted permission to intervene by the Authority;

“filing” means submission to or placement with the Authority of any application, pleadings paper or other document, either by in person delivery to the Authority, or by any other means provided for in these Rules;

“Landing Area” means any locality, either of land or water, including aerodromes and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter servicing or repair of air craft or for receiving or discharging passengers or cargo;

“Land Station” means a station in the mobile Service not intended for operation while in motion;

“mail” means the placement in the post of a document with the intention that it be delivered to the addressee but shall not include facsimile transmission electronic transmission hand delivery or overnight mail;

“major operator” means a telecommunications service provider declared by the Authority to be a major operator for a particular form of interconnection;

“mean power of radio transmitter” means the power supplied to the antenna during normal operation averaged over a time sufficiently long compared to the period corresponding to the lowest frequency encountered in actual modulation;

“Ministerial Guidelines” means the Ministerial determination on interconnection Guidelines as published by notice in the Lesotho Gazette;

“Mobile Service” means a service of radiocommunication between mobile and Land Stations, or between mobile Stations;

“Mobile Station” means a station in a mobile Service intended to be used while it motion or during halts at unspecified points;

“party” means any person with the right to participate in a proceeding. such as witness in a proceeding unless such person becomes an intervener in accordance with rule 47;

“Peak Power p1 Radio Transmitter” means the mean power supplied to the antenna during one radio frequency cycle at the highest crest of the modulation envelope taken under conditions of normal operation;

“office” means the office referred to in rule 9;

”official reporter means a reporter appointed in terms of rule 47;

“official service list” means the list of each and every party to a proceeding before the Authority; **“petitioner”** means a person who has requested affirmative Authority relief;

“pleadings” means an application, petition, complaint (except an informal consumer complaint), answer intervention, notice, motion, statement of position, brief exception, and application for rehearing, review! reconsideration or re-argument, response to pleadings proposed finding of fact and conclusions of law and proposed orders which document shall become a part of the official file in the proceeding;

“Point of interconnection or P01” means a mutually agreed upon economically and technically viable point of demarcation where the exchange of traffic between the Telecommunication System or apparatus of an Interconnect Provider and the Telecommunications System or apparatus of an Interconnecting

Operator, takes place, including the exchange of traffic between a Local Access Provider or mobile Radiocommunication System (as applicable) and the TCL System;

“**presentation**” means any communication made by any means, including via electronic submission or Internet electronic mail, that is intended to transmit facts, information or documentation of any kind to any decision-making staff at the Authority;

“**proceeding**” means any inquiry, complaint or other matter initiated by the filing of an application, complaint or request to the Authority, or initiated by the Authority on its own motion;

“**public holiday**” means any day so designated by the Ministry of responsible for Home Affairs in the Kingdom of Lesotho;

“**public operator**” means the provider of a fixed telecommunications service or a mobile radiocommunication service;

“**public record**” means all writings, including computer programs and records, made, maintained, or kept by the Authority for use in the exercise of functions required or authorized by the Act and these rules as well as national security information as contemplated in section 45 of the Act, but does not include confidential information;

“**private operator**” means the operator of a telecommunications system that provides private telecommunication services;

“**Public Register of licenses**” means the Public Register of licenses to be established and maintained pursuant to section 4 of Schedule I to the Act;

“**Radio Service**” means an administrative sub-division of the field of radio-communication. In an engineering sense, the subdivisions may be made according to the method of operation, as, for example, mobile Service and Fixed Service. In a regulatory sense, the subdivisions may be descriptive of particular groups of licensees as for example, the groups of persons licensed under this part;

“**Registrar**” means the person responsible for the records and official files of the Authority, the Public Register of licenses and for other administrative duties as may be assigned from time to time;

“**Report and Order**” means a document setting forth a final decision of the Authority;

“**respondent**” means a person against whom a formal or informal complaint has been filed or against whom the Authority pursuant to these Rules has initiated a proceeding;

“**response**” means the answer to an application, petition, formal or informal complaint motion, statement of position, brief or exception, Unless otherwise indicated in these Rules or ordered by the Authority, a response shall be filed with the Authority within 14 days after the pleadings to which it responds was mailed to all parties of record as shown in the official service list;

“**schedules**” referred to in these Rules include those attached hereto and to those yet to be issued separately by the Authority;

“**service provider**” means a provider of a telecommunications service other than a Private Operator;

“**staff**” means employees of the Authority, other than members of the Board or clerical and advisory personnel reporting directly to the Board; and

“**station authorization**” means any construction permit licence or special temporary authorization issued by the Authority.

Notice of inquiry

4. (1) The Authority may issue a notice of inquiry to inquire into the facts and circumstances surrounding any issue over which it has jurisdiction

2) A notice of inquiry contemplated in sub-rule (1), may be followed by a notice of proposed rulemaking, and shall be published in newspapers or a collection of newspapers with a circulation sufficient to notify the public of the Authority action

Familiarity with Rules

5. All persons participating in any proceedings or initiating any proceedings before the Authority is deemed to be familiar with the Rules that are pertinent to such proceedings

CHAPTER II - ORGANIZATIONAL AND FINANCIAL PROCESSES**PART 2*****Organisation of the Authority*****Delegation of Authority**

6. (1) In accordance with section 16 of the Act and section 1 of Schedule I to the Act, the Board from time to time may delegate certain authority to the bureau, divisions and offices of the Authority established pursuant to section 16(d) of the Act, to the Chief Executive officer in accordance with section 13 of the Act and to committees of the Board established in accordance with section 1 of Schedule I to the Act

(2) The delegation, contemplated in sub-rule (1), will be in writing and the chief executive officer may act on behalf of the Authority on all matters within the scope of the delegation

Board Meetings

7. In accordance with section 23 of the Act the Board will, where appropriate or necessary, invite members of the public to attend some of the Board meetings an invitation to the public shall be announced through any appropriate media and shall contain –

(a) the date the time and the venue of the Board meeting; and

(b) the agenda of such meeting

Committees

8 (1) The Board may appoint committees established in accordance with the Act consisting of such number of persons not being members of the Board, as it considers appropriate and such persons shall hold office for such period and under such conditions as the Board may determine

(2) Subject to the specific or general directions of the Board a committee may regulate its own procedure

(3) Meetings of a committee shall be held at such times and places as the committee may determine or as the Board may direct

(4) Each committee shall-

(a) keep minutes of its meetings;

(b) keep the Board informed of its activities; and

(c) conduct its proceedings in such manner as the Board may direct

(5) A member of a committee of the Board may be paid such allowance if any as the Board may determine

(6) The final report of such committees shall be submitted to the Authority upon conclusion and/or termination of their mandate

The Registrar

9. (1) the office of the Registrar shall be located at the Authority's headquarters the office duties and responsibilities of the Registrar in respect of these Rules are -

- (a) authentication or signing of all Orders decisions, resolutions hearing notices regulations and any other official documentation of the Authority;
- (b) issuing of notices for hearings and other processes as may be directed by the Authority, and, unless otherwise required by law, or requested by a party, serving a copy of every order granted in a proceeding on each party on the record in that proceeding;
- (c) assigning to each preceding a file number and a title that is descriptive of the subject matter of the proceeding, and ensuring that such a number and title appear on all notices issued orders made and papers filed in any proceeding;
- (d) ensuring that, upon receipt of a filing in a proceeding. the date-stamp appears on the original and the 5 copies filed by the parties to a proceeding and providing, upon request from the parties filing papers with the Authority, additional copies date-stamped for their files provided that they present such copies for date-stamping at the time they are received by the Authority;
- (e) ensuring that pleadings affidavits and other papers are filed in the office of the Registrar;
- (f) ensuring that requests for official information! official copies of orders or decisions of the Authority, or requests to inspect official public records maintained by the Authority are directed to the office of the Registrar;
- (g) compiling and maintaining a list of the names, telephone numbers and mailing addresses of every party upon whom service of pleadings and notices is required by these Rules and furnishing upon request, to any person a copy of the official service list; and
- (h) maintaining a register for every licence approval, certification or registration issued or renewed under the terms of the Act. In conjunction with the name of each provider, the list shall also contain the name and business address of the person designated by the provider to receive all process and official correspondence from the Authority

Communication with the Authority

10. (1) all correspondence addressed to the Authority concerning proceedings subject to these Rules shall be forwarded to the Registrar at the Authority's headquarters unless otherwise specifically ordered

(2) The individual Board members or the staff members of the Authority shall immediately handover to the Registrar any correspondence directed to them if it is related to these Rules. The Registrar shall treat. such correspondence as though received by the Registrar in accordance with sub-rule (1)

Change in particulars of the Authority

11. The Authority shall, in the event of any change in the particulars provided, publish a notice in the Gazette and in a daily newspaper of general and widespread circulation, and shall amend:

- (a) the physical address of the headquarters of the Authority; and
- (0) the postal address of the headquarters of the Authority

Office hours of the Authority

12. unless otherwise stated the office hours for all offices of the Authority are from 8h00 to 16h30, Monday through Friday excluding public holidays and any other dates as may be publicly announced by the Authority from time to time

Internal financial procedures

13. (1) Subject to section 21 of the Act financial rules, procedures and guidelines shall be issued by the Chief Executive of the Authority

Certificates

14. Companies shall submit to the Authority a sworn statement in the form and manner approved by the Authority attesting to the accuracy of the remitted amount and to the completeness and accuracy of the information and calculations upon which its computation is based

Personnel of the Authority

15. The Authority shall establish a code of conduct governing the expected behavior of the personnel of the Authority in relation to these Rules and the personnel must conform to the established code of conduct

CHAPTER III - RECORD KEEPING PROCEDURES**PART 3****Procedures and Requirements for Filing****Copies of original documents**

16. (1) The manner in which a document in a proceeding may be filed by parties to a proceeding is by presenting an original and 5 copies of each document to the Registrar

(2) Requests for access to any records held by the Authority shall be in writing on the prescribed form similar to form LTA 4 as shown in the Schedule to these Rules and shall indicate:

- (a) the requested record; and
- (b) the name address and telephone number of the party making the request.

(3) The Authority shall set and amend from time to time as necessary the amount to be charged when photocopies of documents filed at the office of the Registrar are requested

Filing documents

17. Pleadings, papers and other documents shall be considered to be filed with the Authority upon their receipt and date stamping at the location designated for filing by the Authority

Frivolous filings

18. Requests complaints, pleadings and other papers which the Authority determines contains matters or requests that are vexatious, moot, premature, repetitive, frivolous or are incomplete or which do not warrant consideration by the Authority may be denied with or without prejudice to the petitioner or complainant.

CHAPTER IV - COMPLAINT PROCEEDINGS**PART 4****Representations****Representations to the Authority**

19, (1) Every person may make a representation orally or in writing to the Authority and such person shall be responsible for the continuing truth, accuracy and completeness of information furnished in a pending proceeding whether for licence, approval certification or registration

(2) When the information furnished in a pending proceeding is found to be no longer substantially accurate and complete in all significant respects the person making the representation shall promptly and within 30 days, unless good cause is shown why it can't be done furnish such additional or corrected information to the Authority

(3) By affixing a signature to a pleading or paper filed with the Authority and/or by making any oral representation in accordance with sub-rule (1), the signatory or orator attests that the contents of the statements, pleadings or paper are not misleading, and are true and accurate in every respect, to the best of the person's knowledge, information and belief

PART 5**Consumer Complaint Proceedings****Consumer complaints**

20, (1) In accordance with the provisions of section 61 of the Act any consumer may –

- (a) file a complaint, in writing, at the Authority against any person, classified as a licensee or telecommunication service provider in accordance with the Act; or
- (b) agree to binding or non-binding arbitration of their dispute in accordance with rule 23

(2) The manner in which a consumer complaint contemplated in sub-rule (1)(a), shall be filed is by –

- (a) submitting a properly completed form: similar to form LTA 5 shown in the Schedule to these Rules at the office of the Authority
- (b) serving a copy of the complaint on the licensee and/or telecommunication service provider against which the complaint is being filed

(3) The particulars that shall be stated on a complaint are –

- (a) the name: address telephone number and identification number of the consumer complainant;
- (b) the name of the licensee and/or telecommunication service provider against which the complaint is made;
- (c) a complete statement of the facts tending to show that such licensee and/or telecommunication service operator or provider did or omitted to do anything in violation of the Act or the telecommunication service operator's or providers licence or tariff;

- (d) a copy of the final letter(s) from the licensee and/or telecommunication service operator or provider demonstrating that all efforts to resolve the matter between the consumer or customer and the licensee and/or telecommunication service operator or provider have been exhausted;
- (e) a statement indicating whether a hearing is requested and if so the basis for such request;
- (f) a request for hearing if one is desired and/or a copy of the final disposition statement (whichever is applicable); and
- (g) the specific relief sought

(4) The Authority may, in its discretion, determine the method for dealing with a complaint contemplated in sub-rule (1)(a) which method may comprise-

- (a) a final disposition statement made on the basis of the documents submitted or filed; or
- (b) a complaint proceedings contemplated in rule 20

Decision on disposition statement

21. (1) The Authority may, upon receipt of a complaint and in its discretion, notify the telecommunication service provider operator or licensee that a response shall be submitted within 30 days from the date of the notification

(2) The telecommunication service provider's operators or licensee's written response shall-

- (a) advise the Authority whether he or she is in agreement with the allegations made by the complainant and if not provide a basis for its disagreement;
- (b) indicate whether a hearing is required and if so submit a request for such hearing together with the basis for such request; and
- (c) if requested by the Authority sends a copy of its response to the consumer complainant

(3) The Authority may after investigating the complaint and in its discretion-

- (a) consider a matter to be closed where it appears to the Authority that there are clear indications from the telecommunication service operator's, providers and/or licensees response! or from communications received from the consumer complainant that the matter has been resolved and the Authority shall forward to the parties involved a final disposition statement indicating that the matter is resolved and closed together with a statement outlining the basis for the Authority's conclusion; or
- (b) where it appears to the Authority that the matter has not been resolved, the Authority shall forward to the parties involved a final disposition statement outlining the basis for the Authority's conclusion and may:
 - (i) order the telecommunication service operator, provider and/or licensee to take any steps or perform any actions that it is required to perform under the terms of the Act its licence or its tariff; and
 - (ii) impose sanctions or penalties on the telecommunication service operator provider and/or licensee to the extent permitted by the Act

(4) A written record of complaint proceedings finalised in terms of this Rule consists of-

- (a) the response of the telecommunication service provider against which the informal consumer complaint was filed; and
- (b) a Final Disposition Statement.

Complaint Proceedings

22. (1) The Authority may in its discretion-

- (a) order that a hearing be held to address a consumer complaint;
- (b) order that parties to consumer complaint proceedings file additional pleadings or statements, or undertake discovery proceedings including briefs, written interrogatories and other supplementary documents or pleadings;
- (c) investigate the matters raised in the consumer complaint in any manner allowed by the Act, including permitting evidence to be adduced, summoning and examining witnesses, and ordering the production of any books or documents or objects as it may deem necessary; and
- (d) expedite the treatment of any consumer complaint in order to address emergency matters affecting the safety or health to a consumer including but not limited to the consumer's access to emergency telephone services.

(2) A claim defence or requested remedy including damages shall be pleaded fully and with specificity

(3) Pleadings shall-

- (a) be clear concise and explicit; and
- (b) contain facts that are supported by relevant documentation or affidavit and are sufficient to constitute a violation of:
 - (i) the Act;
 - (ii) an Authority order;
 - (iii) a telecommunication service operators or providers licence or tariff; or
 - (iv) a defence to such alleged violation

(4) Legal arguments shall be supported by appropriate judicial legislative, or regulatory authority and opposing authorities shall be distinguished.

(5) Copies shall be provided of all authorities relied upon.

(6) Specific reference shall be made to any licence provision or tariff provision relied upon in support of a complaint or defence and copies of relevant portions of tariffs and licenses that are referred to or relied upon in a complaint or answer shall be attached to the complaint answer or other pleadings in which they are referenced.

(7) A joint statement of stipulated facts, disputed facts and key legal issues shall also be filed in the record if each party to the action is represented by counsel or if the Authority so orders.

(8) Unless specifically ordered by the Authority, no pleadings: statements or discovery in addition to those contemplated in sub-rules (1) to (7) are allowed in an informal or formal consumer complaint proceeding.

(9) A written record of complaint proceedings finalised in accordance with this rule, consists of:

- (a) a written consumer complaint;
- (b) the response of the telecommunication service provider against which the formal consumer complaint was filed; and
- (c) associated affidavits, exhibits and other attachments.

Arbitration

23. (1) In any formal consumer complaint proceeding contemplated in rule 20, the parties may agree to a binding or non-binding arbitration of their dispute.

(2) The parties may submit their dispute for arbitration in accordance with the Arbitration Act, 1983 (Act No 12 of 1983).

(3) Within 30 days of issuance of the arbitrators decision in any non-binding arbitration proceeding, any party may request that the Authority schedule a formal hearing regarding their dispute which hearing is governed by rule 46.

PART 6

Non-Consumer Complaint Proceedings

Non-consumer complaints

24. Any person or entity that is not a consumer within the meaning of the Act may file within one (1) month from the date when the complainant first knew or should have known of the alleged violation, a complaint with the Authority alleging violation of the Act the Rules a licence issued by the Authority or a tariff filed with and approved by the Authority

Interconnection disputes

25. (1) the manner in which an interconnection dispute shall be submitted to the Authority is by submitting-

- (a) A properly completed application form, similar to form LTA 6 as shown in the Schedule to these Rules, from the submitting party wherein he or she requests the Authority to resolve the dispute;
- (b) a brief statement of any issues as to which there is agreement;
- (c) a clear and concise statement of the issues that are disputed and require Authority action;
- (d) the position of the applicant; and
- (e) a statement of reasons in support thereof

(2) The particulars that shall be stated on the written complaint are-

- (a) the name address and telephone number of the consumer complainant;
- (b) the name of the licensee and/or telecommunication service provider or operator against which the complaint is made;
- (c) a complete statement of the facts tending to show that such licensee and/or telecommunication service provider or operator did or omitted to do anything in violation of the Actor licensee's or telecommunication service providers or operator's licence or tariff;
- (d) a letter signed by the complainant indicating that the complainant has attempted to resolve the matter with the alleged violator, but such efforts have been unsuccessful, together with the copies of any letters between the parties indicating such efforts along with any other supporting documentation including factual and legal support for its position and affidavits;
- (e) a statement indicating whether a hearing is requested, and if so, the basis for such request. If the complainant requests that any hearing be closed to the public, the statement shall contain a statement setting for the basis for such request;
- (f) a statement indicating whether expedited treatment is requested, along with the basis upon which such treatment is requested, together with documentation showing the harm that would result if expedited treatment were not granted; and
- (g) the specific relief sought

(3) The opposing party has 30 days to respond to the application and his or her response shall include- (a) an indication of the position of the opposing party;

- (b) a statement of reasons in support thereof; and
- (c) any statutory or regulatory justification that may exist for its refusal to interconnect.

(4) Notwithstanding the provisions of sub-rules (1) and (2), the parties may reach an agreement and withdraw the dispute by submitting the negotiated agreement to the Authority for its approval

Pleadings requirements and limitations

26. (1) A claim, defence or requested remedy including damages, shall be pleaded fully and with specificity

(2) Pleadings shall-

- (a) be clear, concise and explicit; and
- (b) contain claims that are supported by relevant documentation or affidavit and are sufficient to constitute a violation of:
 - (i) the Act;
 - (ii) an Authority order;
 - (iii) a telecommunication service operator's or provider's licence or tariff; or
 - (iv) a defence to such alleged violation

(3) Legal arguments shall be supported by appropriate judicial Authority or legislative authority and opposing authorities shall be distinguished

(4) Copies shall be provided of all authorities relied upon which are not readily available in the national reporting systems of the Kingdom of Lesotho

(5) Specific reference shall be made to any licence provision or tariff provision relied upon in support of a complaint or defence. Copies of relevant portions of tariffs and licenses that are referred to or relied upon in a complaint or answer shall be attached to the complaint, answer or other pleadings in which they are referenced

(6) A complaint proceeding contemplated in rule 8 may be resolved on the written record at the discretion of the Authority

(7) Unless specifically ordered by the Authority, no pleadings, statements or discovery in addition to those contemplated in sub-rule (1) to (6) are allowed in a non-consumer complaint proceeding

(8) The Authority may in its discretion-

- (a) order that an adjudicatory hearing be held to address the matters raised in the complaint in any manner allowed by the Act, including permitting evidence to be adduced, summoning and examining witnesses, and ordering the production of any books or documents or objects as it may deem necessary;
- (b) order that parties to formal consumer complaint proceedings file additional pleadings or statements, or undertake discovery proceedings including briefs written interrogatories and other supplementary documents or pleadings;
- (c) investigate the matters raised in the consumer complaint in any manner allowed by the Act, including permitting evidence to be adduced, summoning and examining witnesses, and ordering the production of any books or documents or objects as it may deem necessary; and
- (d) expedite the treatment of any complaint

(9) If the Authority deems the complaint to be frivolous, vexatious, incomplete, moot or otherwise disputable, the Authority shall notify the parties in writing of this determination within 5 days of receipt of the complaint supported by the reasons for the Authority's determinations along with a formal dismissal of the complaint with or without prejudice

(10) If after 5 days, the Authority has not made a determination pursuant to sub-rule (9), it shall advise the parties in writing of its receipt of the complaint, and the respondent has 7 days from the date of receipt of the Authority's statement to file an answer to the complaint

(11) The respondents answer shall-

- (a) be served on all parties to the proceeding;
- (b) be confined to the specific allegations raised in the complaint;
- (c) be attached to all relevant supporting documentation including factual and legal support for its positions and affidavits;
- (d) contain an answer to each factual allegation contained in the complaint; and
- (e) indicate whether he or she requests a hearing and if so state the basis for such request

provided that if the respondent requests that any hearing be closed to the public the statement shall contain the basis for such request

(12) if expedited treatment has been requested. the Authority shall, within 7 days of receipt of the respondent's answer, notify the parties in writing whether expedited treatment has been authorized and state the basis for the decision

(13) If expedited treatment-

- (a) is authorized, the Authority shall, within 7 days of such authorization, notify the parties in writing-
 - (i) that an oral hearing has been denied and state the basis for the Authority's decision; or
 - (ii) if an oral hearing has been granted state the basis for the Authority's decision together with a notice of hearing indicating the date, time and any other particulars for the hearing. The Notice of Hearing shall contain the Authority's decision regarding whether the hearing will be open to the public, and shall contain the basis for such decision, If expedited treatment is authorized, the hearing shall be set for the earliest practicable time but in no event more than 14 days from the date of the Notice of Hearing; and
- (b) is not authorized the Authority shall promptly address the matters raised in the complaint.

PART 7

Subscriber Complaints

Subscriber Complaints

27. (1) The Authority may deal administratively with disputes between a telecommunication services provider or operator and a subscriber or a class of subscribers including but without limitation to, those relating to-

- (a) allegations of undue discrimination by the telecommunication services provider or operator in respect of charges or terms for the provision of a communications service; or
- (b) allegations of unauthorized charges levied by the telecommunication services provider or operator on the subscriber or class of subscribers

(2) The Authority may investigate disputes after the subscriber or a class of subscribers has first made a reasonable effort to resolve the complaint or claim through the approved complaints and claims handling procedures provided by the telecommunication services provider or operator.

(3) Hearings and formal proceedings regarding fair trade matters shall be dealt with in accordance with rule 46.

(4) A final decision of the Authority in a dispute-

- (a) shall, within 15 days of the approval of the Authority:
 - (i) be entered in the register of the Authority by the Registrar; and
 - (ii) communicated in full text to each of the parties to the dispute; and
- (b) has-
 - (i) binding effect on the parties; and
 - (ii) the effect of an addendum to the Contract or the agreement where a Contractor agreement already exists between the parties

(5) Any person aggrieved by the decision of the Authority: contemplated in sub-rule (4) may apply for a review in the High Court within 30 calendar days after entry of the decision in the register of the Authority.

CHAPTER V - ADJUDICATION PROCESSES

PART 8

Confidentiality of Information

Request for confidentiality

28. (1) A document filed at the Authority by a party in any proceeding shall be placed in the public record, unless the party filing the document asserts a claim of confidentiality, contemplated in sub-rule (2), at the time of filing

(2) Subject to sub-rule (4) any party participating in a proceeding before the Authority may request that information contained in a document filed by that party at the Authority be considered confidential and not to be disclosed to the public.

(3) The information is presumed confidential at the time of filing, after receipt of a claim of confidentiality (4) a claim of confidentiality may be:

- (a) made only by the party to whom the confidential information belongs; and
- (b) requested for any information relating to the:
 - (i) intellectual property;
 - (ii) trade secrets;
 - (iii) proprietary information, including information pertaining to financial capacity or business plans of any person; or
 - (iv) any other matter reasonably justifying confidentiality as provided by common law or statute

(5) The request for confidential treatment shall be made at the time of filing with the Authority of the document containing the purported confidential information and:

- (a) accompanied by a concise statement indicating the type of information and why the information is confidential; and
- (b) the confidential information shall be included in a separately sealed envelope! which is marked with the filing date, file number, title of the proceeding, the name of the party to whom the information belongs and the signature of the person requesting the confidential treatment.

(6) In each filing containing a request for confidential treatment of information, an abridged version of the filing shall be placed in the public record of the proceeding! containing blank pages indicating that purported confidential information is contained on those pages and these blank pages shall be inserted into each filing in place of the pages containing the said information.

Burden of proof of confidentiality

29. (1) If the Authority requests public disclosure of information contained in a filing the burden of proof that the information is confidential is on the party seeking confidential treatment.

(2) If the Authority contests a confidential designation of information, it shall notify the party claiming confidential treatment in writing that the purported confidential information is to be publicly disclosed.

(3) The party claiming confidentiality has 10 days to file a reply unless the Authority otherwise directs

(4) The Authority may overrule any confidential designation at the request of any person or on its own motion if it determines that the said information is not confidential in accordance with sub-rule (2)

(5) Subject to sub-rule (6), any person may object to the confidential designation of any information filed with the Authority as contemplated in Rule 30, and the burden of proof that the information is not in fact confidential is on the proponent of the confidential designation

(6) A party, contemplated in sub-rule(s), desiring public disclosure of information in respect of which there has been a claim of confidentiality may file with the Authority:

- (a) a request for public disclosure of the information, setting out the reasons thereof including the public interest in the disclosure of the information; and
- (b) any material in support of the reasons why such information should be publicly disclosed

(7) A copy of a request for the public disclosure of information has to be served on the party claiming confidentiality, and that party may, unless the Authority determines otherwise, file a reply with the Authority within 10 days after the date of service of the request and shall serve a copy of the reply on the party requesting public disclosure

Decision of Authority on confidentiality

30. (1) The Authority may, after receipt of a request for confidential treatment in terms of rule 28-

- (a) dispose of a claim for confidentiality on the basis of the documentation filed; or (b) if it considers such procedure to be just and proper
 - (i) refer the matter for hearing under rule 46;
 - (ii) require depositions or examinations to be taken before a person appointed to take evidence under rule 48; or
 - (iii) take the matter under advisement of a quorum of the Board

(2) Where the Authority is of the opinion that! based on all the material before it, the specific direct harm likely to result from the public disclosure justifies a claim for confidentiality, the Authority may:

- (a) order that the document not be placed on the public record;
- (b) order limited disclosure of the document, or that the document be disclosed to a selected number of particular persons;
- (c) order disclosure of an abridged version of the confidential information; or
- (d) order that the document be disclosed to parties at a hearing to be conducted in camera

(3) A decision of the Authority to treat information as confidential has no binding effect on any Other Government agency.

(4) Authority staff may not, in the absence of prior written approval of the Board, provide assurances against disclosure of confidential information to other Governmental agencies

Nondisclosure agreement

If the Authority orders limited disclosure in terms of rule 30(2)(b), the possessor of the information or thing may, subject to Authority approval, require each party who is granted access to the information to sign a non-disclosure agreement as to substance which agreement may-

- (a) prevent the disclosure of the information to any person not immediately involved in the proceeding, including senior officers of his or her corporation or association;
- (b) prevent copies of the information to be made;
- (c) ensure the return of the information to the party immediately upon conclusion of the proceeding;
- (d) prevent the information to be destroyed at the conclusion of the proceeding;
- (e) ensure that the information be used only for the purpose of resolving the proceeding at hand and most especially not for competitive business purposes; and
- (f) ensure that improper disclosure or use by a party or person may result in such civil liabilities or the parties may agree upon sanctions as in the non-disclosure agreement.

PART 9

Procedure for Pleadings

Timeliness of filings

32. Pleadings, applications, requests and other papers or documents required to be filed by a particular date shall be received for filing at the Authority's headquarters within the time limits, if any for filing during the Authority's office hours as stated in rule 12

Time

33. (1) The registrar shall put a date stamp on any pleadings or other papers received for filing

(2) For purposes of determining the date of the Authority's receipt for filing of any pleadings or other papers, the date of the Authority's receipt thereof shall prevail

(3) Any pleadings or other papers received for filing after the Authority's office hours as contained in rule 12 shall be deemed filed the following business day.

Reckoning of time

34. (1) Unless otherwise stated, sections 49 through 52 of the Interpretation Act of 1977, (Act No 19 of 1977), shall be invoked to calculate the amount of time within which persons or entities wishing to file papers in response to deadlines established by the Authority shall file those papers

(2) On days when an emergency situation occurs and Authority office closes early and does not reopen, that day shall be treated as though it were a public holiday under section 49 of the Interpretation Act.

(3) If a filing period is less than 7 days, intermediate public holidays Saturdays and Sundays may not be counted in determining the filing date.

(4) If the document is served by mail an additional 3 days (excluding public holidays) may be allowed for all parties serving a response to the document which was in fact served by mail.

Filing periods for pleadings

35. (1) Subject to sub-rule (2), the time frame within which pleadings shall be filed is in the case of-

- (a) oppositions to any motion, petition or request, within 10 days after the original pleading has been filed;
- (b) replies, within 7 days after the time for filing oppositions has expired;
- (c) additional pleadings after authorization by the Authority have been received;
- (d) oppositions to a request for stay of any Authority order, or to a request for other temporary relief within 7 days after the request for stay is filed; and
- (e) any reply to the opposition, by the person who filed the request for stay or other temporary relief, within 7 days after the time for filing oppositions has expired

(2) The Authority may, in its discretion rule *ex parte* upon-

- (a) requests for continuances;
- (b) withdrawal of papers or pleadings;
- (c) extensions of time;
- (d) requests for permission to file pleadings in excess of the length prescribed under these Rules or by Authority order and
- (e) requests for temporary or emergency relief, without waiting for the filing of oppositions or replies

Length of pleadings and papers

36. (1) all papers filed with the Authority shall contain concise statements of the matters referred to therein

(2) The Authority reserves the right to specify a limit to the number of pages for any document that may be filed in a proceeding, which page limit may be waived, and permission to file pleadings in excess of the predetermined page limit may be granted only for good cause shown.

(3) Requests to file papers in excess of the page limit shall be made at least 7 days before the deadline for filing the paper at issue and state the reason for the request.

Extensions of time

37. (1) Subject to sub-rule (2), no the extensions of time may be granted by the Authority

(2) The Authority may, in its discretion, grant requests for extension of time if reasonable extenuating circumstances are shown

(3) A request for an extension of time may be made by-

- (a) filing the request stating the reasonable extenuating circumstances! with the Authority at least 7 days or as soon as practicable before the filing deadline; and
- (b) notifying the other parties and the Registrar that a request for extension of time has been (or is being) filed

Specifications for pleadings and papers filed with Authority

38. (1) Papers to be filed at the Authority shall preferably be typed or printed by means of a word processor

(2) If papers are-

- (a) prepared by mechanical means, it shall be prepared in black ink, with at least a 2.5-centimetre margin on all sides, and shall be double-spaced on 21 centimetres by 297 centimetres paper (PA); or
- (b) hand written, it shall be prepared in black ink, be clearly legible and the incused shall be of a sufficient strength so that the writing does not appear faint or difficult to read.

(3) The name, address and phone number of the writer shall be typewritten or written in block capital letters on the last page of the document.

(4) Papers filed, in or relating to an ongoing proceeding of any type, shall include the title of that proceeding and the number assigned thereto by the Registrar on the first page of the paper

(5) All papers filed with the Authority shall be-

- (a) accompanied by a cover letter containing the signature of the filer or, in the alternative the last page of the core document shall be signed by the writer of the document;
- (b) Collated consecutively numbered at the bottom of each page securely stapled in the upper left-hand corner and
 - (i) papers over 50 pages shall be bound or suitably secured to the satisfaction of the Authority; and
 - (ii) papers over 20 pages shall contain a Table of Contents;
- (c) written in English; and
- (d) filed with an original and 5 copies that are clear and permanently legible

Verification of signatures

39. Where the authenticity of a signature on any document filed with the Authority is in question, the Authority may require the person who filed such document to cause such signature to be authenticated-

- (a) by the signature and seal of office or a notary public or commissioner of oaths;
- (b) in a manner prescribed in the rules of the High Court of Lesotho for the authentication of documents executed outside Lesotho to permit their being produced or lodged in any public office in the Lesotho; or

- (c) in any other manner, which, to the satisfaction of the Authority demonstrates that the signature was actually made by the person purporting to have signed the document.

Legal representation

40. All parties and witnesses participating in proceedings before counsel of their choice may represent the Authority

Proof of service

41. (1) Unless otherwise indicated all parties making filings in any proceeding before the Authority shall serve copies of those filings on all other parties to the proceeding included on the list prepared for that proceeding by the Registrar and such service shall be made-

- (a) by that party or by his or her representative on or before the day on which the document is filed at the Authority; and
- (b) in paper form with the signature affixed unless the party to be served agrees to accept service by some other form

(2) Proof of service contemplated in sub-rule (1)

- (a) shall be noted on the Fast page of the filing;
- (b) shall show the date and manner of service; and
- (c) may be by written acknowledgement of service, by certificate of the person effecting the service or by other proof satisfactory to the Authority

(3) In the event that proof of service is omitted in pleadings or documents filed at the Authority, and such pleadings or documents generally require proof of service or where the counsel of record for a party is omitted it will be presumed that proper service had not taken place on other parties or on all counsel of record unless the contrary is proved

(4) The manner in which service shall be executed if a party is represented by-

- (a) an attorney is by serving a copy of the document or pleadings on the attorney unless service upon the party is ordered by the Authority; or
- (b) more than one attorney, serving a copy of the document or pleadings on each attorney of record: provided that no more than two attorneys of record may be designated for purposes of service

(5) Parties who intervene in proceedings are responsible for reviewing the official service list in that file to determine the identity of parties to ensure that pleadings and other papers are properly served on all parties to the proceeding

PART 10**Procedures for Hearings****Depositions**

42. (1) A deposition upon oral examination or on written questions is subjected to the same terms and conditions applied in the Magistrates Courts of the Kingdom of Lesotho

(2) Additional information may be taken into account to the extent permitted by the rules of the Magistrates Courts of the Kingdom of Lesotho

Subpoenas

43. (1) A subpoena shall be sealed by the Registrar with the Authority's official stamp

(2) A subpoena may be-

- (a) served in any part of the Kingdom of Lesotho;
- (b) issued in blank; and
- (c) completed by the attorney or party on whose behalf it is issued and shall contain the names of any number of persons required to appear before the Authority Joint pre-hearing statement.

44. (1) The Authority may, prior to the pre-hearing conference contemplated in rule 45, instruct the parties to submit a joint pre-hearing statement signed by both parties or their counsel of record

(2) A Joint pre-hearing statement shall contain-

- (a) a statement regarding the identity of the parties and significant persons involved in the case;
- (b) a statement of the facts agreed upon in the case;
- (c) a statement of the facts in dispute;
- (d) a statement of applicable statutes rules and judicial case law that is applicable to the case; and
- (e) any other matters as deemed relevant by the Authority

Pre-hearing conference

45. (1) The Authority may, prior to a hearing contemplated in rule 44 and in its discretion, instruct the parties to participate in a pre-hearing conference by notifying the parties in writing, at least 10 days before the proposed pre-hearing conference, of the date scheduled for such conference together with an indication of the issues that will be discussed.

(2) The issues, contemplated in sub-rule (1), may comprise

- (a) the necessity or desirability of simplification, clarification amplification or limitation of the issues;
- (b) the admission of facts and the authenticity of documents and the possibility of reaching consensus on facts in dispute;
- (c) the procedure and approximate duration of the hearing;
- (d) the limitation of the number of witnesses;
- (e) the necessity or desirability of amending pleadings and offers of settlement or proposals of adjustment;
- (f) the date for the formal hearing; and
- (g) any other matters as may expedite the conduct of the hearing

Hearings

46. (1) The Authority may convene a hearing to investigate or adjudicate any matter over which it has jurisdiction pursuant to the Act.

(2) An matter, including formal applications, requests and petitions, may be adjudicated on the written record, and such written record comprises all pleadings, affidavits, exhibits and other documentation that is a part of the official record of the proceeding

(3) Subject to sub-rule (4) a Notice of Hearing containing-

- (a) a statement as to the reasons for the Authority's action;
- (b) a statement as to the matters of fact and law involved and the issues upon which the matter will be heard;
- (c) a statement as to the time place and nature of the hearing;
- (d) a statement as to the legal authority and jurisdiction under which the hearing is to be held; and
- (e) any other statements the Authority may deem relevant,

shall be issued by the Authority and mailed to the parties by the Registrar.

(4) Except for hearing scheduled on an expedited basis, a hearing may not be scheduled on less than 60 days notice, unless it is a postponement or continuation of a previously scheduled hearing

(5) A hearing is followed by an order based on the facts presented at the proceeding and on any written record, contemplated in sub-rule (2)

(6) If a decision rests on official notice of a material fact not appearing in the record a party shall be afforded a reasonable opportunity to prove the contrary –

(7) Continuances of any hearing and extension of time for making any filing or perform any act required or allowed to be done within a specified time may be granted by the Authority or the examiner upon motion for good cause shown unless the time for performance or filing is limited by statute.

(8) Witnesses at a hearing are examined viva voce on oath unless otherwise provided by these Rules.

(9) The Authority may, at any time, order that-

- (a) any particular facts be proved by affidavit;
- (b) the affidavit of any witness be read at a hearing on such conditions as the Authority deems reasonable; and
- (c) any witness be examined before one or more members of the Authority's Board or an expert examiner appointed by the Board in accordance with rule 48

(10) Immediately upon convening the hearing) the Authority shall enter on the record a statement reciting all actions taken at the pre-hearing conference contemplated in rule 45, and incorporating into the record all of the stipulations and agreements of the parties which are approved by the Authority and any special rules which the Authority deems necessary to govern the course of the hearing

(11) The Authority may) after the finalisation of the hearing) in its discretion instruct each party to file proposed findings of fact and conclusions of law and/or a proposed order

(12) The Authority shall issue an order when the hearing is finalised

Official reporter

47. (1) The Authority shall designate, from time to time, an official reporter for the purpose of recording and transcribing of the hearing proceedings.

(2) An official reporter shall be a person with competence and ability to record the hearing proceedings such that the record fairly reflects the proceedings

(3) The transcript of the testimony or argument at any hearing may be purchased from the official reporter or obtained from the Authority upon payment of the charges.

Expert examination

(1) An expert examiner named by the Authority and authorized by the Kingdom of Lesotho to administer oaths may assist the Authority in conducting examinations of witnesses and any witness shall appear before that expert examiner when so order by the Authority in the manner contemplated in sub-rule (3).

(2) The evidence added by an expert examiner is confined to the subject matter in question and any objection to the admission if such evidence is noted and dealt with by the Authority at a hearing on the matter.

(3) The manner in which a witness is ordered, to appear before an expert examiner, by the Authority and notified of the time and place of examination is by furnishing the witness with a form, similar to form LTA 7, as shown in the Schedule to these Rules.

(4) Subject to sub-rule (5), all examinations are returned to the Authority) and the testimony of a witness, certified under the hand of the expert examiner is *prima facie* proof of the facts stated therein.

(5) The Authority may, in its discretion for the purpose of clarification permit the introduction of relevant expert memoranda or reports as evidence in chief by a witness who-

- (a) testifies as to his qualifications to draw the conclusions contained in the memoranda or report; and
- (b) confirms that the memoranda and/or report was prepared under his or her direction and control and is accurate to the best of his or her knowledge and belief.

Intervention

49. (1) Any interested person, licensee or telecommunication service provider or operator may intervene in respect of an intervention application by-

- (a) mailing or delivering by hand a letter of intervention to the Authority for filing in accordance with sub-rule (2); or
- (b) making a submission or participating in a formal hearing in accordance with rule 46

(2) An intervener, contemplated in sub-rule (1)(a) shall-

- (a) file with the Registrar, on or before the date prescribed in the directions on procedure a letter of intervention stating:
 - (i) the intervener's interest in the matter;
 - (ii) his or her views regarding the application including any comments or views the intervener considers appropriate; and
 - (iii) any relevant information that may be useful in explaining or supporting those views; and
- (b) serve a copy of the letter of intervention on all parties in the proceeding

Consolidation

50. The Authority may, upon motion or in its discretion and to promote the proper and expeditious dispatch of business consolidate, for hearing or otherness

- (a) any cases, which involve the same applicant or involve substantially the same issues: or
- (b) any applications, which present conflicting or mutually exclusive claims

Withdrawal of papers

51. (1) Any party may file a request for the dismissal or withdrawal of any application request or pleadings

(2) The granting of a request to dismiss or withdraw an application! request or pleadings does not necessarily authorize the removal of such application or pleadings from the Authority's official public record

Ex parte presentations

52. (1) An ex parte presentation may not be made to the Authority except for the circumstances provided for in sub-rule (2).

(2) An ex pane presentation may be allowed by the Authority if a party files within 24 hours after presenting his or her case to the Authority a statement containing-

- (a) the proceeding number;
- (b) the issue discussed;

-
- (c) a list of names of those persons that were present at the meeting on behalf of the Authority and the party making the presentation; and
 - (d) attaching a copy of any written presentation made at the meeting

(3) The Authority shall maintain a list of ex parte presentations that is open to public inspection.

(4) Any party who contravenes the provisions of sub-rule (2) is subject to penalties including but not limited to:

- (a) dismissal of the proceeding with prejudice;
- (b) an adverse ruling on a pending issue that is the subject of the prohibited ex parte presentation when other parties are unfairly prejudiced by the presentation;
- (c) the striking of evidence or pleadings when the evidence or pleadings is tainted by the prohibited ex parte presentation; and
- (d) a public statement of censure by the Authority, when the prohibited ex parte presentation is determined to be a part of a continuing pattern of prohibited ex parte communications, or when a single prohibited ex parte communication is made which is of such a nature to require admonishment but where mitigating circumstances exist that:
 - (i) negate the need for a more severe sanction; and
 - (ii) the prohibited public record in the proceeding is not prejudiced to the extent that the Authority is unable to make an unbiased decision

Final decisions

53. (1) The Authority may, in its own discretion as contemplated in sub-rule (2) or on request of any interested person as contemplated in sub-rule (3) issue decisions determining a controversy or removing uncertainty

(2) The Authority may, in its own discretion, hold hearings or conduct any other proceedings allowed under the Act in order to make a final decisions shall comply with the requirements contemplated in rule 46.

(3) Any interested person may request the issuance of a final decision by filing a request for a final decision in person at the office of the Authority and such request shall contain-

- (a) specific reasons for the request;
- (b) the precise nature of the decision requested;
- (c) the views facts arguments and data deemed relevant to support the action requested; and
- (d) an indication of the manner in which the requester will be affected by the requested decision.

(4) The Authority may deny or dismiss with or without prejudice to the requester, requests that are moot. Vexatious, premature, repetitive, frivolous or," which do not warrant consideration and shall state the grounds for such denial or dismissal.

(5) Subject sub-rule (4), the Authority shall, upon receipt of any request for conclusive ruling, publish a notification through the appropriate media which notification shall contain-

- (a) a summary of the requested action;
- (b) a notice summarizing the material issues and facts raised in the request; and
- (c) an invitation, inviting interested persons to furnish the Authority with comments thereon or representations in regard thereto

(6) Any interested person may, within 30 calendar days of the publication contemplated in sub-rule(s) file a response or opposition to any request for declaratory ruling, accompanied by proof of service on the requester.

(7) Any interested person may, within 15 working days of the filing of the response or opposition contemplated in sub-rule (6), file a reply on the statements contained in a response or opposition to any request for final ruling accompanied by proof of service on the petitioner and the parties filing the statement(s) to which the reply is directed

(8) No additional pleadings may be filed unless specifically requested by the Authority.

(9) No pleadings other than those specified in this Rule will be accepted for filing in a final ruling proceeding, unless specifically requested by the Authority

(10) After the Authority has duly considered a request for final ruling, the Authority may-

- (a) grant the entire request;
- (b) grant and/or deny the request in whole or in part; or
- (c) request comments regarding the request

(11) The Authority has the discretion to entertain requests for expedited treatment of any request for final ruling.

Requests for reconsideration of final authority decisions

54. (1) A party to a proceeding which has resulted in a final Authority action may file a request! within 30 calendar days of the final decision, for reconsideration by the Authority of such a final decision and shall serve a copy of such request on all parties to the proceeding

(2) Oppositions to requests for reconsideration contemplated in sub-rule (1) shall be-

- (a) filed within 10 working days after the request for reconsideration is filed;
- (b) served upon the petitioner and all other parties to the proceeding; and
- (c) limited to matters raised in the request for reconsideration

(3) A reply to any opposition contemplated in sub-rule (2) by the petitioner shall be-

- (a) filed within 7 working days after the oppositions have been filed;
- (b) limited to matters raised in the oppositions; and
- (c) served on all parties to the proceeding

(4) The Authority may within 90-calendar days-

- (a) deny the entire request;
- (b) grant the entire request; or
- (c) grant and/or deny the request in whole or in part,

and state the reason for its decision.

Requests for clarification of final Authority decisions

55. (1) A party to a proceeding which has resulted in final Authority action may file a request, within 30 calendar days of the final decision, for clarification by the Authority of such a final decision and shall serve a copy of such request on all parties to the proceeding.

(2) Oppositions to requests for clarification contemplated in sub-rule (1), shall be-

- (a) filed within 10 working days after the request for reconsideration is filed;
- (b) served upon the petitioner and all other parties to the proceeding; and
- (c) limited to matters raised in the request for clarification.

(3) A reply to any opposition contemplated in sub-rule (2) by the petitioner shall be-

- (a) filed within 7 working days after the oppositions have been filed;
- (b) limited to matters raised in the oppositions; and
- (c) served on all parties to the proceeding

(4) The Authority may within 90 calendar days;

- (a) deny the entire request;
- (b) grant the entire request; or
- (c) grant and/or deny the request in whole or in part

and state the reason for its decision

Review of Authority decisions

56. Any party may file an application with the High Court to review a final decision of the Authority

CHAPTER VI - LICENSING PROCEDURES**PART 11*****Granting, Amending and Revoking Licences*****Licensing**

57. (1) In accordance with section 16(1)(e) of the Act, the Authority shall prescribe the terms, conditions and modification (if any) of all licenses, as it considers consistent with the objectives of the Act the Regulations and such other circumstances as the Authority may consider appropriate –

(2) The circumstances contemplated in sub-rule (1), which the applicants shall give the details of, and the Authority shall consider: are-

- (a) the positions and nature of radio stations and circumstances in which and the persons by whom such stations may be installed or used;
- (b) Specifications as to the apparatus which may be installed or used, the places where, the purposes for the circumstances in which and the persons by whom an apparatus may be used; and - -
- (c) the time period within which a licensee brings into the use the system and services for which it is licensed

(3) Licensees have an obligation to provide efficiently and at a reasonable cost the service for which that licensee has obtained a licence

(4) Licences may include the provision of services to rural or sparsely populated areas or other specified areas and other conditions concerning the extension of lines as provided under the Act and the Regulations

(5) Licenses shall-

- (a) set out the terms and conditions subjected to the granting of the license;
- (b) specify the required telecommunication services to be provided by means of a specified telecommunication system;
- (c) Authorize the connection to
 - (i) any other telecommunication system specified in the license; or
 - (ii) any apparatus so specified in the license; and
- (d) Authorize the required telecommunication services to be provided by means of a specified telecommunication system

Licence conditions

58. A licence shall include, where applicable conditions-

- (a) that are in the public interest and consistent with the Act and Regulations;

-
- (b) requiring
- (i) on the grant of the licence;
 - (ii) during the course of a valid licence; or
 - (iii) both on the grant and during the course of a valid licence,
- the payment of an amount determined by the Authority to defray any expenses incurred by the Authority in granting the licence and managing the service;
- (c) requiring a telecommunication services provider or operator to furnish in a manner and at times as may be prescribed by the Authority, documents, accounts estimates, returns or other information as the Authority may require for the performance of its duties under the Act;
- (d) prohibiting a telecommunication services provider or operator from showing preference to or from exercising discrimination against a particular person or persons of any class or description as respects any service provided connection made or permission given;
- (e) requiring a telecommunication services provider or operator to publish in such manner and at such times as are specified in the licence, a notice specifying the charges and other terms and conditions that are to be applicable to the services provided) connection made or permission given;
- (f) requiring a telecommunication services provider or operator to ensure that an adequate and satisfactory information system which may include billing information tariff information, directory services and directory inquiry services be made available to users;
- (g) requiring a telecommunication services provider or operator to comply with directions given by the Authority in relation to the national transmission plan) signaling plan) switching plan) numbering plan) and the charging plan to which a telecommunication services provider or operator shall design and maintain his telecommunication network, and conditions requiring approval from the Authority in the event of any departure from any of the aforesaid plans;
- (h) requiring a telecommunication services provider or operator to keep the Authority informed of the practices followed by him in the routing of national and international traffic;
- (i) requiring a telecommunication services provider or operator to ensure that compensation is paid to persons affected by the running of underground cables or overhead lines;
- (j) requiring a telecommunication services provider or operator to comply with any direction given by the Authority as to such matters as are specified in the licence;
- (k) requiring a telecommunication services provider or operator, except with the consent of the Authority, to do or refrain from doing such things as are required to be done or required not to be done under the licence;
- (l) requiring a telecommunication services provider or operator to refer for determination by the Authority such questions arising under the licence as are specified in the licence;
- (m) requiring the connection to any telecommunication system to which the licence relates or permit the connection to any such system) of such other telecommunication systems and such apparatus as are specified in the licence; and

- (n) requiring a telecommunication services provider or operator to develop and publish a plan to restore service during emergencies; and
- (o) specifying acceptable economic criteria in accordance with which the Authority shall approve tariff adjustments proposed by a telecommunication services provider or operator

Application for licences

59. The manner in which an application for a licence may be made is by providing the Authority with a properly completed form similar to form LTA 8 as shown in the Schedule to these Rules, accompanied by the fee as prescribed by the Authority from time to time

Suspension and revocation of licences

60. (1) Every licence shall contain provisions for the suspension and revocation of the licence and the Authority may suspend or revoke a licence in accordance with those terms

(2) Without prejudice to the preceding subsection the Authority may suspend or revoke a licence on the following grounds-

- (a) serious or repeated breach of the licence conditions;
- (b) any fraud or intentional misrepresentation by the operator applying for the licence; or
- (c) where the licensee has ceased to be eligible to hold a licence under the provisions of the Act; or
- (d) failure to pay the prescribed licence or annual operating fees

(3) The Authority shall give the licensee 60 days written notice with reasons of the intended suspension or revocation, during which the licensee has an opportunity to make representations to the Authority in accordance with rule 19.

(4) After due consideration of any representations by the licensee the Authority may-

- (a) prescribe time during which the licensee is required to remedy the offending act or conduct; or
- (b) require the payment of a fine as specified in the Act

(5) Where the Authority is of the opinion that the foregoing measures are insufficient it may-

- (a) suspend the licence for a specified period of time; or
- (b) revoke the licence

(6) The suspension or revocation of a licence may be reviewed by the High Court.

Transfer of licence

61. (1) the manner in which a licensee may apply for the transfer of a licence as contemplated in section 32 of the Act, is by providing the Authority with a properly completed form similar to form LTA 9 as shown in the Schedule to these Rules

(2) An application for the transfer of a licence contemplated in sub-rule (1), is to be accompanied by an application for licence in the name of the proposed transferee which application for licence shall be completed by the person to whom the licensee intends to transfer the licence and submitted to the Authority on the form similar to form LTA 9 as shown in the Schedule to these Rules.

(3) The Authority shall in considering an application for transfer have regard to the same terms and conditions as in considering a grant of a new licence, provided that the Authority may in its absolute discretion refuse to grant the application under this Rule.

Lapse and renewal of licence

62. (1) An application for renewal of a licence shall be made in accordance with the conditions of each licence and each application process is considered part of the Rules

(2) In considering an application for a renewal of a licence the Authority may take previous performance of the licensee in the previous licence period

Licence modification procedures

63. (1) The Authority may, upon reasonable grounds, modify the conditions of any licence if the Authority considers modification necessary to achieve the objectives of the Act and in the public interest by taking into account-

- (a) the terms of the licence;
- (b) the justified interests of licensees; and
- (c) the principles of fair competition and equality of treatment

(2) Before modifying any condition of a licence the Authority shall publish a notice through any appropriate media stating the reasons for the intended modifications and giving the licensee and other interested parties sixty (60) days to make any written representation regarding the proposed modification.

(3) The Authority shall give due consideration to any representations made by the licensee.

(4) The Authority may grant a licensee a period of time to comply with the modification of its licence where modification causes undue hardship to the licensee

(5) An application by a licensee to modify the term or condition of a licence shall be placed on public notice through any appropriate media.

(6) Interested parties may be given 30 days to submit written comments on the proposed modification to the Authority.

(7) The Authority will give due regard to the arguments of the licensee and the comments of interested parties in determining whether to grant the proposed modification.

(8) Denials of applications for licence modifications may be reviewed by the High Court.

Licence fees

64. The licence fees charged shall be those prescribed by the Authority from time to time.

Unlicensed services

65. Subject to section 28(1) of the Act, no licence is required for the provision of telecommunications services on a private telecommunications system within a single area of a person's property, if such system is independent of the public system and does not cause damage, injury or interference to such public system, provided that no separated network is established.

PART 12**Obligations of Licensees****Address of licensee**

66. (1) each licensee shall furnish to the Authority an address to be used by the Authority in serving documents or directing correspondence to that licensee

(2) Unless any licensee advises the Authority to the contrary, the address contained in the licensee's most recent application is used by the Authority for purposes of serving documents or directing correspondence

(3) In corresponding with the Authority-

- (a) every licensee shall state his address, telephone number, the party he represents, his return address, if different than the first stated address, and the official file number and title of the subject matter of the proceeding, if applicable; and
- (b) the holders of certificates, licenses, permits, registrations or other authority issued by the Authority shall, use the name address and number shown on the certificate permit registration or other authority

Licensee report forms

67. (1) Every licence holder shall, at the end of the business year, prepare and submit to the Authority on a form similar to form LTA 10 as shown in the Schedule to these Rules, a report on the operations and services of the licensee and the extent to which the conditions of the licence have been adhered to

(2) Licensees must submit an Annual Compliance Report form similar to form LTA I, as set out in the Schedule to these Rules and a Gross Annual Revenue Report form similar to form LTA2 as set out in the

Schedule to these Rules to the Authority

(3) An officer of the licensee shall certify the truthfulness completeness and accuracy of each report

(4) Information set forth in Gross Annual Revenue and Annual Compliance reports may be entitled to treatment as Confidential Business Information in accordance with rule 28

(5) The Gross Annual Revenue Report shall be submitted together with the payment of the requisite fee by no later than three (3) months after the end of each licensee's financial year

PART 13**Spectrum Allocation****Spectrum Allocation Proceedings**

68. (1) the manner in which an application for the allocation of frequency frequency bands and coordination of radio frequency spectrum may be made is by-

- (a) submitting to the Authority a properly completed form similar to form LTA 11 as shown in the Schedule to these Rules;

- (b) stating, in addition to the technical data required by the form mentioned in sub-rule (l)(a), the category of service to which the application is to be assigned and the frequencies to be used; and
- (c) making payment of the prescribed fee as shall be indicated by the Authority from time to time

(2) Applications for the reallocation of frequency, frequency bands and co-ordination of radio frequency spectrum shall-

- (a) state the basis for the request to reallocate a portion of the radio frequency spectrum to a particular use or service; and
- (b) include references explaining the consistency of the proposed reallocation with the international and regional agreements to which Lesotho is a party

(3) The Authority shall invite comments from stakeholders on the proposed reallocation

Criteria for approval

69. (1) Subject to sub-rule (2) on receipt of an application under the rule 68(l), the Authority-

- (a) may assign or allocate the use of frequency to the applicant and
- (b) shall take into account-
 - (i) all technical data of the equipment of the applicant; and
 - (ii) the rights and freedoms of other persons.

(2) An application for frequency or frequency band use shall be granted by the Authority unless there are compelling reasons founded on technical data, national security, public safety or other reasonable justification, which shall be communicated to the applicant.

Revocation of approval order

70. (1) Before revoking a frequency licence the Authority shall give notice through any appropriate media:

- (a) stating that it proposes to revoke the allocation and setting out its effect; and
- (b) specifying the time (not being less than 30 days from the date of the notice) within which representations or objections to the proposed revocation may be made by any person interested in such revocation

(2) Before revoking a frequency allocation the Authority shall consider any representations or objections that are duly made and not withdrawn

(3) An order revoking a frequency licence shall be sent to the operator affected

(4) Appeal of an order revoking a frequency allocation may be made to the High Court

Assignment of frequencies –

71. (i) Frequency assignments may be made only-

- (a) on the condition that harmful interference may not be caused to any station licence operating in accordance with the Lesotho Table of Frequency Allocation; and

- (b) after due consideration has been given to primary services over and above secondary services

(2) Applicants for authorization to operate new transmitting facilities or changed transmitting facilities located in the vicinity of an existing station, including a Authority monitoring station, where the new facility would increase the field strength produced over the existing station beyond that previously authorized shall ensure to give consideration prior to filing applications, to-

- (a) the possible need to protect existing stations from harmful interference; and
- (b) the protection of existing radio transmission stations

(3) Applicants who have no reliable data indicating the field strength or power flux density of their proposed radio facilities, which could cause interference to existing stations, may conduct advance consultation Obligations of licensees

72. A licensee assigned the use of frequencies or frequency bands shall-

- (a) maintain and provide, at the Authority's request, an inventory of frequencies assigned to the licensee; -
- (b) pay the annual utilization fee as determined by the Authority beginning on the effective date of the licence;
- (c) co-ordinate the use of frequency or frequency bands with other licensees. Where competing providers seek the use of the same or similar frequency, each is required to participate in the co-ordination of such frequency under the auspices of the Authority;
- (d) submit to the modification of the order granting use or allocation of frequency, as the Authority deems necessary to promote the most efficient use of the radio frequency spectrum; and
- (e) ensure avoidance of harmful emission interference or illegal use of the radio frequency spectrum

Transfer and assignment of station authorization

73. (1) The manner in which a request to transferor assign a licence for an entire system may be made is by submitting to the Authority-

- (a) the request on form similar to form LTA 12 as shown in the Schedule to the Rules; and
- (b) the appended Station Authorizations covered by the licence

(2) Requests for authority to transferor assign multiple Station Authorizations may be filed together in a single document- Provided that each separate Station Authorization is identified and fully described

Filing of applications

74. (1) To ensure uniformity and consistency of the manner in which applications and reports are to be submitted for Authority consideration, standard forms are prescribed in the Schedule to these Rules.

(2) Any application shall be filed at least 30 days prior to the date on which it is desired that Authority action thereon be completed.

(3) Any application for Station Authorization shall-

- (a) be submitted to the Authority at its principal office;
- (b) be specific and complete with regard to
 - (i) the station location operating frequency band
 - (ii) the proposed equipment;
 - (iii) the emitted power;
 - (iv) the antenna height;
 - (v) operating frequency band;
 - (vi) station location (latitude, longitude, and altitude);
 - (vi) any ether information required; and
- (c) include a certification that the relevant laws have been complied with, to the extent that it requires permission or approval from other Government agencies or administrative bodies including laws related to the environmental impact of construction

(4) Subject to sub-rule (5), the manner in which an application for the operation at temporary locations shall be made in the event where a Land Stationer Fixed Station operates at a temporary single location for:

- (a) less than 12 months! which location is considered to be temporary is by complying with the informal application procedures outlined in rule 17; or
- (b) more than 12 months, in order to specify the permanent location is by filing no later than 30 days before the expiration of the 12-month period

(5) The original signed copy of the application contemplated in sub-rule (4) shall be filed and applications with facsimile signatures may not be accepted

(6) The Authority, upon receipt of an application shall review the application and may direct requests for further information to the applicant

Applications and forms

75. (1) subject to sub-rule (2), original copies of applications amendments and related statements of fact required by the Authority shall be signed-

- (a) in person by the applicant if the applicant is an individual;
- (b) by one of the partners if the applicant is a partnership;
- (c) by an officer or duly authorized employee if the applicant is a company or other business entity;
- (d) by a member who is an officer lithe applicant is an unincorporated association; and
- (e) by the applicants advocate if the applicant is physically disabled or in his or her absence from Lesotho, in accordance with sub-rule (3).

(2) Applications, amendments and related statements of fact filed on behalf of eligible Government entities and units of Local Government, including incorporated municipalities shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of Lesotho

(3) The advocate shall, in the event contemplated in sub-rule (1)(e), provide a separate explanation why the application is not signed by the applicant, provided that if any matter is stated on the basis of the advocate's belief only (rather than his knowledge), he shall separately set forth his or her reasons for believing that such statements are true.

(4) Subject to sub-rule (5), applications, amendments, and related statements of fact need not be submitted under oath.

(5) Willful false statements made in an application, an amendment thereto, or a related statement of fact, shall be punishable by fine and imprisonment, and by appropriate administrative sanctions including the denial of an application for, or the revocation of, a station licence pursuant to the Act.

Filing Procedures for Radio Stations

76. (1) the manner in which an application may be made for a combined construction permit and radio station licence-

- (a) for Land Stations and Fixed Stations is by submitting to the Authority a properly completed form similar to form LTA 13 as shown in the Schedule to these Rules:

Provided that

- (i) a separate application shall be submitted for each base station and each Fixed Station; and
- (ii) if the proposed antenna exceeds 6 meters in height above the ground level or more than 6 meters in height above an existing building, the applicant shall comply with the requirements of all applicable regulations of Lesotho's Directorate of Civil Aviation;

- (b) for mobile stations is by submitting to the Authority a properly completed form similar to form LTA 13 as shown in the Schedule to these Rules:

Provided that-

- (i) an application for each mobile station comprising any specified number of mobile units to be operated in the same service and within the same geographical area, including hand-carried or pack-carried Units may be combined into one application; and
- (ii) an application for mobile units may be combined with an application for a single base station for those mobile units that will be operated with that base station only; and –

- (c) to be modified is by submitting to the Authority a properly completed form similar to form LTA 13 as shown in the Schedule to these Rules:

Provided that-

- (i) the individual stations covered by an application are clearly identified in a blanket application for modification of a group of authorizations of the same class and where the modifications requested are the same for all stations covered by the application; and
- (ii) a separate application shall be filed applying for modification to change location of a base or Fixed Station.

(2) The manner in which an application may be made for the renewal of Station Authorization is by submitting to the Authority a properly completed form similar to form LTA 14 as shown in the Schedule to the Rules:

Provided that-

- (a) the individual stations covered by an application shall be clearly identified in the blanket application which may be submitted for renewal of a group of station licenses in the same class if the renewal request is exactly in accordance with the terms of the existing authorizations; and
- (b) the application must be filed at least 60 days prior to the expiration date of the licence to be renewed.

(2) The manner in which an application may be made for consent to assignment of radio Station Authorization is by submitting to the Authority a properly completed form similar to form LTA 15 as shown in the Schedule to these Rules:

Provided that-

- (a) the application shall be submitted when the legal right to constructor to control the use and operation of a station is to be transferred as a result of
 - (i) a voluntary act (contractor other agreement);
 - (ii) an involuntary act (death or legal disability of the holder of a Station Authorization);
 - (iii) by involuntary assignment of the physical property constituting the station under a court decree in bankruptcy proceedings or other court order; or
 - (iv) by operation of law in any other manner; and
- (b) the application shall be accompanied by a certification signed by the proposed assignee

(4) No Radio Station Authorization may be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation or any other entity holding such Authorization to any person except upon application to and approval by the Authority.

(5) The manner in-which an application may be made for consent to the transfer of control of a corporation or business entity holding radio Station Authorizations is by submitting in writing to the Authority, a properly completed form similar to form LTA 16 as shown in the Schedule to these Rules whenever it is proposed to change the control

(6) The particulars that shall be contained in the application contemplated in sub-rule (5) are the-

- (a) legal name of the Licensee the Transferor and the Transferee;
- (b) mailing address, telephone number and e-mail address (if available) for the Licensee the Transferor and the Transferee;
- (c) contact representatives for each, together with their firm or company name mailing address telephone number and e-mail address (if available);
- (d) licence number, call sign and other facility identifiers of all stations to be transferred;
- (e) licence number, call sign and other facility identifiers of all stations in which the transferee or any party to the application has an attributable interest;

- (f) name, address, citizenship and positional interest of the transferee's officers, directors, stockholders or partners (if other than individual also show name address and citizenship of natural person authorized to vote the stock);
- (g) description of the changes in interests as a result of transfer;
- (h) a copy of the complete documentation of the transfer together with a request for confidential treatment;
- (i) a statement whether the transfer provides for reversion of the licence(s) in the event of default or any right to reassignment of the licence in the future; provision of a security interest in the station licence(s) permits or authorizations; a covenant not to compete; or a stock pledge;
- (j) a statement whether the transfer provides for the transfer of control to non-Lesotho interests and if so a full description of those alien interests;
- (k) certification by the transferee that sufficient net liquid assets are on hand or are available from committed sources to consummate the transaction and operate the station(s) for at least three months;
- (l) certification by the transferor(s) that it has answered each question fully completely and accurately; and
- (m) any other information required by the Authority.

Defective applications

77. (1) Incomplete applications, which are defective with respect to completeness of answers to required questions execution or other matters of a purely formal character shall be brought to the attention of the applicant

(2) If an applicant is requested by the Authority to file any documents or information not included in the application a failure to comply with such request constitutes a defect in the application

(3) Applications which are not in accordance with the Authority's Rules or other relevant requirements may be considered defective unless accompanied by a request of the applicant for waiver of or an exception to any rule regulation or requirement with which the application is in conflict

(4) Requests to amend, waive, or for an exception to any rule, regulation or requirement of the Authority shall show the nature of the amendment waiver or exception desired and set forth the reasons in support thereof

Amendments or dismissal of applications

(1) Prior to the granting of an application an application may be amended or dismissed without prejudice upon request of the applicant

(2) Each amendment to, or request for dismissal of an application shall be signed, authenticated, and submitted in the same manner and with the same number of copies as required for the original application.

(3) All subsequent correspondence or other material which the applicant desires to have incorporated as part of an application already filed shall be submitted in the form of an amendment to the application.

(4) Failure to respond to official correspondence or request for additional information may be the cause for rejection which rejection:

- (a) shall be without prejudice where an application has not yet been considered; or
- (b) may be made with prejudice after an application has been fully reviewed by the Authority
Notice of violations

79. (1) Subject to sub-rule (2), the licensee shall, within 15 days from receipt of a notice of violation or such other period as may be specified in such a notice, submit a written response to the Authority

(2) If the response contemplated in sub-rule (1) cannot be sent within the period contemplated in sub-rule (1) or such specified period: by reason of illness or other unavoidable circumstances, acknowledgement of the notice of violation, together with a request for an extension of time setting forth a satisfactory explanation of the delay and the reasons for the extension shall be filed with the Authority

(3) Subject to sub-rule (4) the response to each notice of violation shall:

- (a) be in duplicate and properly completed; and
- (b) not be abbreviated by reference to other communications or responses to other notices

(4) If the notice of violation relates to:

- (a) violations that may be due to the physical or electrical characteristics of transmitting apparatus: the response shall indicate what corrective steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed the date such apparatus was ordered the name of the manufacturer and the promised date of delivery;
- (b) lack of attention to or improper operation of the transmitter, the name and licence number of the operator in charge shall be given

(5) If the installation of the apparatus contemplated in sub-rule (4)(a), requires an additional licence, the file number of the application shall be given, or if a file number has not been assigned by the Authority such identification as will permit identification of the application

Content of station records

(1) Licensees of each station shall maintain station operation records, which shall include the following information-

- (1) dates and hours of operation;
- (2) all measurements of the frequencies), including the name of the person making the measurements, the exact frequency measured or the observed deviations from the assigned frequencies) expressed in Hertz kilohertz or percent plus or minus and a statement of any corrective action taken
- (3) emitted power
- (4) types of emission;
- (5) chronological record of experimentation conducted; and
- (6) the name of the operator on duty

(2) For all stations, when service or maintenance duties are performed which may affect their proper operation, the responsible operator shall sign and date an entry in the station record concerned, giving the following information

- (1) pertinent details of all duties performed by the operator or under the operator's supervision;
- (2) the operators name and address; and
- (3) stations whose antenna structure is required to be illuminated shall maintain a record in accordance with the regulations of the Lesotho's Directorate of Civil Aviation

Forms and retention of station records –

81. (1) The records shall be kept in an orderly manner, in Suitable form, and in such detail that the data required are readily available Key letters or abbreviations may be used if proper meaning or explanation is set forth in the record

(2) Each entry in the record shall be signed by a person having actual knowledge of the facts to be recorded

(3) No record or portion thereof shall be erased, obliterated, or willfully destroyed within the required retention period of 6 years any necessary correction may be made only by the persons originating the entry! who shall strike out the erroneous portion initial the correction made, and indicate the date of correction

(4) A copy of this part shall be maintained in the records of each fixed or Land Station licence under this part

(5) Records required to be kept by this part shall be retained by the licensee for a period of at least 3 years

Prescribed forms

82. The prescribed forms shall be those issued by the Authority for application for a radio communication licence or other communications with the Authority –

Frequencies for field strength surveys or equipment demonstrations

83. (1) Stations licensed for experimental and student authorizations have no specific frequencies designated in a station licence

(2) Prior to the commencement of a survey or demonstration the licensee shall request a specific frequency assignment that contains the following information

- (1) time, date and duration of survey;
- (2) frequency to be used;
- (3) location of transmitter and geographical area to be covered;
- (4) purpose of survey;
- (5) method and equipment to be used; and
- (6) names and addresses of persons for whom the survey is conducted.

Student authorization - eligibility and applications

(1) The Authority may, in its discretion, issue an authorization to students of post-secondary institutions or higher, for the purpose of-

- (a) presenting experiments;
- (b) technical demonstrations or educational broadcasting for school; or
- (c) school approved projects that require the use of radio

and each authorization granted is subject to the condition that no harmful interference is caused to any authorized station

(2) Notwithstanding the requirements in rule 74, an application for a student authorization-

- (a) may be filed in letter form, in duplicate and with the original signed; and
- (b) the information contained shall include-
 - (i) name and address of applicant;
 - (ii) a statement that the applicant is a citizen of Lesotho;
 - (iii) applicants school or college and level;
 - (iv) a detailed description in narrative form of the project including the type and purpose of operation;
 - (v) place of operation, physical address, name of building or other specific location;
 - (vi) date(s) of operation including the exact hours, when known as well as the duration of each period of operation;
 - (vii) equipment to be used:
Provided that- if the equipment is manufactured a list of the names of the manufacturer and type number shall be provided] and regarding other equipment a detailed description and a circuit diagram shall be furnished;
 - (viii) frequency(ies) desired and range of frequencies which could be employed;
 - (ix) the method by which the frequency of operation will be determined;
 - (x) frequency tolerance;
 - (xi) the means by which this tolerance will be maintained;
 - (xii) DC plate power input to final radio frequency stage and if not known, an indication of any known power rating of equipment and stating whether this is power output of transmitter or radiated power and whether average or peak;
 - (xiii) type of emission including a description of the modulation that will be applied if modulated; and
 - (xiv) a description of the antenna to be used including height above ground

(3) The application, Contemplated in sub-rule (2), shall be accompanied by a signed statement from the head/principal of the school or college, or a member of its faculty, on appropriate letterhead, stating that the project has school or college approval and indicating the person under whose general supervision the project will be conducted.

(4) Rules requiring the prior issuance of a construction permit are inapplicable to applications for student authorizations- Provided that all other licensing requirements contained in these Rules are met.

(5) No student authorization may be issued unless the description of the project shows that the DC plate power input to the final radio frequency stage does not exceed watts- Provided that a greater power may be authorized it appears to the satisfaction of the Authority that such greater power is necessary and that appropriate measures will be taken to prevent interference.

Promotions and development of new technologies

85. (1) The Authority takes cognizance of emerging technologies, including those technologies that are not yet proven or are still under study by research institutions and ITU.

(2) The Authority may grant provisional licences for such emerging or not yet proven radio apparatus to be operated under special conditions to be laid down by the Authority.

(3) Notwithstanding sub-rule (1), the Authority reserves the right to suspend, withdraw or cancel such provisional licence if the radio apparatus appears to the Authority to require further study or to pose risk of interference to other licensees.

PART 14

Licences for Radio Communication

Station authorization –

86. (1) No radio transmitter or station may be operated in Lesotho without a proper station authorization granted by the Authority.

(2) Prior to installing and certain radio transmitting equipment a person shall first apply to the Authority for a radio station authorization in accordance with rule 74:

Provided that-

an application for station authorization shall be submitted with the application for a licence, to the extent that licences granted by the Authority include provisions permitting the provision (telecommunications, mobile, or global mobile personal communications (GMPCS) services, and related grants of Station Authorizations pertaining to the systems covered by the licence are required.

Transfer and assignment of station authorization

87. (1) A Station Authorization, the frequencies authorized to be used by the holder of such authorization, and the rights therein may not be transferred, assigned, or in any manner disposed of, voluntarily involuntarily, or indirectly by transfer of control of any corporation holding such authorization, to any person, unless the Authority after securing full information decides that the said transfer is in the public interest and gives its consent in writing.

(2) The manner in which a request for authority to transfer or assign a Station Authorization may be made is by submitting in writing to the Authority on a form similar to form LTA 17 as shown in the Schedule to these rules.

Misuse of frequencies and cross-ownership

88. (1) The use of a frequency other than the frequency assigned under the holder's frequency authorization or the provision of a service other than the service or services for which the holder is licensed is a violation in accordance with these Rules

(2) Applicants for issuance of frequency authorizations and radiocommunication licenses may not be an affiliate with any other entity at the time of submission, or holds a frequency authorization for the same use in Lesotho.

Temporary authorization

89. (1) The Authority may issue temporary authorization where a need is shown for operation of an authorized station for a limited time only in a manner other than that specified in the existing authorization but not in conflict with the Authority's Rules.

(2) No request for temporary authorization may be considered unless full particulars as to the purpose for which the request is made are stated.

(3) The Authority shall grant temporary authorization if a compelling need for the operations for which temporary authorization is sought. Such a need may include emergency or other exigent circumstances. The Authority may grant temporary authorization for a period of time not to exceed the need of the applicant to operate the station.

(4) The Authority shall grant or deny the application for temporary authorization within 30 days of receipt and applications not granted by the Authority in the said period shall be deemed denied.

Change in equipment

90. (1) No material change may be made in a licensed transmitter without specific authorization from the Authority

(2) Prior authorization from the Authority, in liaison with the Directorate of Civil Aviation is required before antenna changes may be made at a station at a fixed location which changes include-

- (a) any change which increases the height of a structure supporting the radiating portion of the antenna or decrease the height of a lighted antenna structure;
- (b) any change in the location of an antenna. When such relocation involves a change in the geographic co-ordinates of latitude or longitude by as much as one second; and
- (c) or when relocation involves a change in street address.

Operation at a temporary location

91. (1) An application for authority to operate at temporary locations shall specify the general geographical area within which the operation will be confined

(2) When a station is authorized to operate at temporary locations the licensee shall notify the Authority:

- (a) when the station is placed in operation for the first time; and
- (b) when the station is moved from one location to another

Discontinuation of station operation

92. In case of a permanent discontinuation of operation of a fixed or Land Station, or in case of permanent discontinuation of operation of all transmitter units listed in the licence for a mobile Station, the licensee shall forward the station licence, together with a request for cancellation of the licence to the Authority

Station identification

93. Each class of station shall, unless specifically exempted by the terms of the Station Authorization, transmit its assigned call sign at the end of each complete transmission- Provided that the transmission of the call sign at the end of each transmission is not required for projects requiring continuous, frequent, or extended use of the transmitting apparatus if the call sign is transmitted at least once every thirty minutes

Suspension of transmission required

94. The radio emissions of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the Station Authorization until such deviation is corrected, except for transmissions concerning the immediate safety of life or property in which case the transmissions shall be suspended as soon as the emergency is terminated.

Operator requirements

95. (1)The licensee shall ensure that:

- (a) all transmitter adjustments which affect the proper operation of a station shall be made by a person qualified to perform such adjustments; and
- (b) the person operating the transmitter is qualified to operate the said station

(2) Notwithstanding the provisions of sub-rule (1), construed to in any respect] the responsibility of station licensees to maintain control over the stations licensed to them or for proper functioning and operation of those stations in accordance with the terms of the licenses of those stations may not be modified or diminished.

Posting station licenses

96. (1)The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

(2)A clearly legible copy of the authorization for each station at a fixed location shall be posted at every control point of the station.

Operation during an emergency

97. (1) The licensee of any station may, during a period of declared national emergency, as defined in the Constitution of Lesotho, in which the normal communication facilities are disrupted, utilize such station for emergency communication service by communicating in a manner other than that specified in the station licence.

(2) The Authority shall be notified:

- (a) after the beginning of such emergency use stating the nature of the emergency and the use to which the station is being put; or
- (b) immediately when such emergency use of the station is terminated when normal communication facilities are available,

(3) In no event may any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Authority or by law

(4) The Authority may, at any time order the discontinuation of any such emergency communication contemplated in sub-rule (1)

Inspection of stations

98. All stations and records of stations shall be made available for inspection:

- (a) at any time while the station is in operation; or
- (b) upon reasonable request of an authorized representative of the Authority

Inspection and maintenance of towers and control equipment

99. The licensee of any radio station which has an antenna structure required to be painted and illuminated pursuant to the provisions of the regulations of the Lesotho's Directorate of Civil Aviation shall perform all inspections and maintenance of the tower marking and lighting and associated control equipment required thereby.

Notice of violations

100. (1) Any use of a radio station or assigned frequency illegally, or any violation of the conditions stated in the licence for the radio station constitutes an offence under the Act and may be prosecuted by the Authority as such.

(2) Any licensee that is suspected of having violated any provision of the Act, or any provision of the Regulations, shall be served with a written notice wherein the facts are brought under his or her attention and requesting a statement concerning the matter.

Experimental authorizations

101. (l) Authorizations for stations for experimental radio service may be issued only to persons qualified to conduct experimentations utilizing hertzian waves:

- (a) for scientific or technical operation data directly related to a use of radio not provided by existing rules; or
- (b) for communications in connection with research projects when existing communication facilities are inadequate

(2) Applicants eligible for authorizations in an established service, and seeking to develop operational data or techniques directed toward the improvement or extension of that service shall file applications and conduct such projects under the developmental rules of the established service.

Experimental authorizations - scope of service

102. (1) Stations operating in the experimental radio service may be permitted to conduct operations, which include:

- (a) experimentations in scientific or technical radio research;
- (b) experimentations under contractual agreement with the Government of Lesotho or for export purposes;
- (c) Experimentations under contractual agreement for export purposes;
- (d) communications essential to a research project;
- (e) technical verifications or demonstrations of equipment or techniques;
- (f) field strength surveys by persons not eligible for authorization in any other service;
- (g) demonstration of equipment to prospective purchasers for proposed stations in existing services by persons engaged in the business of selling radio equipment;
- (h) testing of equipment in connection with production or type approval of such equipment;
- (i) development of radio technique, equipment or engineering data not relating to an existing or proposed service including field or factory testing or calibration of equipment;
- (j) development of radio technique, equipment, operational data or engineering data related to an existing or proposed Radio Service; and
- (k) limited market studies.

(2) Other types of experiments that are not specifically covered under sub-rule (1)(b) that the Authority may be considered.

Frequencies for the experimental radio service

103. Stations operating in the experimental radio service may be authorized to use any government or non-government frequency designated in the Table of Frequency Allocations as available for assignment to this service- Provided that the need for the specific frequency(ies) requested is fully justified by the applicant

Experimental report

104. (1) Unless specifically stated as a condition of the authorization, licensees are not required to file a report on the results of the experimental program carried in accordance with Rule 101.

(2) The Authority may, as a condition of authorization, request the licensee to forward periodic reports in order to evaluate the progress of the experimental program.

(3) Unless the public interest requires otherwise, the Authority may deny public access to certain reports and associated material upon request of an applicant.

Limited market studies

105. Subject to the instrument of authorization, licenses granted for the purpose of limited market studies in accordance with this Rule are subject to the following conditions:

- (1) the licensee must own or control all transmitting and/or receiving equipment used in the study;
- (2) the licensee is responsible for informing anyone participating in the experiment that the service or device is granted under an experimental authorization and is strictly temporary; and
- 3) the size and scope of the market study may be subject to limitations on a case-by-case basis as the Authority shall determine.

International co-ordination

106. (1) The Authority shall designate qualified staff to administer and conduct negotiations and planning with the International Telecommunications Union and its affiliated bodies and with other countries' regulatory bodies.

(2) The staff contemplated in sub-rule (1), shall co-ordinate the planning with neighboring countries in accordance with the regional co-ordination body.

(3) The international Radio Regulations (Geneva, 1994) shall be incorporated in the planning and the assignment of frequencies bands of frequencies and the licensing of the use of all frequencies shall be in accordance with the International Table of Frequency Allocations.

(3) The Authority shall co-ordinate internationally in accordance with the regional planning of Region I as determined by the International Telecommunication Union.

(4) Lesotho shall co-ordinate internationally in assistance with the other member administrations in any regional body in which it is a member that is established to coordinate spectrum planning and usage or with the other party to any bi-lateral arrangement for the coordination of spectrum planning and usage.

Domestic frequency co-ordination

107. (1) Holders and applicants of radio station licences shall, in order to eliminate the possibility of harmful interference, co-ordinate their proposed frequency usage with other holders of radio station licences if they do not possess the exclusive right to the use of that portion of the radio frequency spectrum for the provision of a particular radio service

(2) All licensees for domestic mobile communications shall co-ordinate proposed frequency usage with other users of all base stations that may be affected by such users.

(3) Frequency co-ordination requirements shall also apply to permissive changes in frequency assignments for mobile communications and upon making a permissive change a licensee shall notify the Authority of its frequency usage and report on the results of its co-ordination.

(4) In engineering a system or modification thereto, licensees that do not hold exclusive rights to the use of a specific band of the frequency spectrum shall by appropriate studies and analyses select sites transmitters antennas frequencies and frequency use techniques that avoid intersystem interference.

CHAPTER VII - TARIFF AND RATES**PART 15*****Tariffs and Rates*****Licensed operators**

108. (1) Subject to section 41 of the Act! licensed operators shall file, within 3 months from the date on which the Authority has published these rules in the Gazette their tariff rates and their correspondent agreements with the Authority for its approval.

(2) If the Authority takes no action prior to the expiration of 30 days following the filing of a tariff rate contemplated in sub-rule (1), the tariff becomes effective.

De-listed Operators

109. (1) An operator de-listed in accordance with section 28 of the Act shall furnish the Authority with a proposed tariff, including the standard terms and conditions applicable thereto, excluding special offers and other promotions. The proposed tariff shall be filed with the Authority not later than 10 days prior to its scheduled date of effectiveness.

(2) If the Authority takes no action prior to the expiration of 30 days following the filing of a proposed tariff rate, the tariff becomes effective, subject to the Price Cap Regime unless the effectiveness of a proposed tariff rate is suspended according to sub-rule (3).

(3) Actions that may suspend the effectiveness of a proposed tariff rate pending a determination of its validity include, but are not limited to:

- (a) the initiation of Authority review; or
- (b) the filing of a complaint,

and the issuance of a notice of suspension of the proposed tariff rate to the licensee Suspension of a proposed tariff rate shall be in writing and forwarded to the licensee.

(4) The Authority shall print filed tariff rates and keep it open for public review and inspection.

(5) De-listed operators shall furnish such schedules to subscribers or potential subscribers upon request.

(6) Modifications of existing tariffs are filed with the Authority in accordance with sub-rule (1).

Price Cap

110. (1) The Authority shall determine the formula for price cap

(2) Operators shall file with the Authority annual applications for the adjustment of the actual weighted average Rates for the rate-regulated services in the baskets defined subject to the Price Cap Regime (3) The period over which such rates may be adjusted under the Price Cap shall not be more than once a year.

Application for rate approval

111. (1) The manner in which the annual application for rate approval shall be filed with the Authority by licensed service providers is by submitting a properly completed form similar to form LTA 19 as shown in the Schedule to these Rules

(2) The application contemplated in sub-rule (1) shall:

- (a) Conform to the methodology and formula defined in the relevant licence;
- (b) Contain supporting documentation, including all calculations information and all other documents necessary to support the application; and
- (c) be filed at least 30 working days before the proposed effective date of the rate adjustment

(3) The Authority shall-

- (a) examine and verify the application and documentation for compliance with the applicable Price Caps or Price Cap Formulas;
- (b) request additional information from the licensee as it deems necessary! to be submitted within 10 working days after receipt by the licensee of the request of the Authority; and
- (c) inform the applicant that extension of the deadlines contemplated in sub-rule (3)(b), may be issued only upon a motion that compliance is not possible due to exigent circumstances.

Decision

112. (1) Subject to the limitations in the price caps, the proposed rate is deemed approved if the Authority takes no action prior to the expiration of the 30 working days after the application was filed or within 10 working days after submission of additional information requested from the service provider.

(2) The Authority shall issue an order denying the imposition of the proposed rate where the licensees application-

- (a) used incorrect methodology or formula; or
- (b) provided insufficient or erroneous supporting documentation.

(3) An order denying the imposition of the proposed rate shall state sufficiently the reasons for the denial and shall be furnished in writing to the service provider

(4) Upon approval of the new rate the service provider shall-

- (a) notify its subscribers of the approved rates; and
- (b) publish the approved rates in any publication the Authority may designate, and other publications the service provider deems appropriate no less than 10 working days prior to effective date of the rate.

Information obligations

113. (1) Service providers shall comply with information requests from the Authority and the Authority shall have the right to verify all information provided by the licensee.

(2) The Authority may continually revise the procedures in order to-

- (a) design report forms that satisfy the information needs of the Authority; and
- (b) minimize the costs for the service provider relating to the compilation and provision of information.

Investigation, suspension or rejection of rate

114. (1) Notices that a rate proceeding has been filed or is pending shall be published through any appropriate media

(2) Petitions seeking investigation, suspension or rejection of a rate or proposed rate may be filed by any person or persons at the Authority and such petition shall:

- (a) be filed in writing with the Authority;
- (b) state the interest of the petitioner;
- (c) specify the name and proposed rate or rate filing number the petition addresses;
- (d) the specific reasons why such rates warrant investigation suspension or rejection; and
- (e) not include a formal complaint, which may be treated as a separate complaints pleadings if included in the said petition.

(3) The Authority shall:

- (a) consider petitions in its decision to grant licensees proposed rate;
- (b) notify the licensee if the petitions are addressed to a licensee's present rate and based on the merits of the petition the Authority decides to investigate or suspend the licensee's present rate; and
- (c) allow such licensee 20 working days to respond

(4) The Authority may request additional information, within 10 working days of receipt of the licensee's response, and allow the licensee 20 working days for delivery of such additional information.

CHAPTER VIII - INSPECTION, ENFORCEMENT AND FAIR TREATMENT**PART 16****Enforcement****Investigative authority**

115. (1) The Authority may-

- (a) investigate any matter falling within its competency under the Act or the Rules that relates to:
 - (i) communications services provided or communications apparatus supplied in Lesotho;
 - (ii) any representation made to the Authority by or on behalf of a person whom the Authority considers to have an interest in the matter which is the subject of the representation; or
 - (iii) a complaint by a subscriber to the Authority in relation to the telecommunication services provided by a telecommunication services provider or operator;
- (b) cause such remedial measures to be taken as the circumstances of the case may require; and
- (c) appoint any person or committee to inquire into and report to the Authority on any matter pending before the Authority-

Provided that the Authority if directed by the Ministry shall institute an inquiry

(2) A person or committee appointed in terms of sub-rule (1)(c)-

- (a) may be given directions regarding procedures for conducting an inquiry by the Authority;
- (b) shall submit a report to the Authority in a form and manner that the Authority may direct-

Provided that where an inquiry is instituted pursuant to the Authority shall submit the directions of the Ministry a copy of the report to the Minister

(3) If the Authority is satisfied, as a result of an investigation contemplated in sub-rule (1), that a telecommunication services provider or operator has breached a condition of a licence or an obligation under the Rules, it may direct the operator in writing to rectify the breach or to do such other acts as the Authority may specify in the directive

(4) The Authority may in the course of any investigation direct:

- (a) a service operator to take such steps as appears to it to be necessary for the rectification of any cause or matter which gave rise to the complaint; and
- (b) that financial redress be provided where appropriate

Inspection by the Authority

116. (1) In accordance with sections 16(1)(l) and 50(5) of the Act the Authority may appoint inspectors for the purposes of:

- (a) verifying compliance with the provisions of these Rules and the decisions of the Authority made in terms of these Rules; or
- (b) establishing and maintaining such technical standards as may be deemed necessary for the provision of adequate and efficient telecommunication services;

(2) In accordance with section 50 (6) of the Act, an inspector appointed in accordance with sub-rule (1) shall be provided with a certificate of identity which shall be presented at the request of any person appearing to be in charge of any place entered by the inspector.

(3) In accordance with section 50 (5) of the Act inspectors may:

- (a) enter and inspect! at any reasonable time! any place owned by or under the control of a telecommunication services provider or operator in which the inspector believes on reasonable grounds to be any document, information, or apparatus relevant to the enforcement of the Act;
- (b) examine the document, information or apparatus or remove it for examination or reproduction as the case may be;
- (a) examine a radio apparatus, log books, reports, data, records, documents or other papers, where the inspector has reason to believe that there is any radio apparatus or interference-causing apparatus; and
- (d) remove the information document, apparatus or equipment for examination or reproduction as the case may be-

Provided that the inspector makes a signed inventory for any information, document, article, apparatus or equipment he or she removes and handing a copy of the signed inventory to the operator

(4) In the event that an enforcement proceeding is brought against the owner of the property by the Authority on the basis of the property removed from a telecommunication services provider or operators location the Authority:

- (a) may retain the said property pending the outcome of the proceeding;
- (b) may retain the said property permanently upon issuance of an order of forfeiture; or
- (a) shall promptly return the said property to the operator upon the conclusion of the proceeding

(5) An inspector for the purpose of exercising performing and discharging its powers functions or duties under the Rules may by notice in writing require any person:

- (a) to furnish to the Authority within such time and at such place as may be specified in the notice any document specified or described in the notice which is in his or her possession or control; or
- (b) to produce for inspection any book return account or record in his or her possession or control

(6) Licensees and holders of authorizations shall allow inspectors authorized by the Authority access to their facilities at reasonable times, enabling the inspectors to carry out inspection and verification functions, including visits to their premises and facilities and the inspection of equipment and documents to ensure compliance with the Act

(7) An inspector does not have the power to force any person, to produce a document, which he is not entitled to take by force in terms of any civil proceedings before a court

Enforcement of licence conditions

117. (1) Where the Authority is satisfied that a person who is authorized by a licence to operate a telecommunication system is contravening or has contravened any of the conditions of his or her licence the Authority may-

- (a) subject to sub-rule (2), make an order for the purpose of securing compliance with that condition; or
- (b) subject to sub-rule (4), revoke any such order

(2) Before making an order under sub-rule (1)(a) the Authority shall

- (a) notify that licensee by publishing such a notification in a manner as the Authority considers appropriate and furnishing him or her with a copy of such notification stating:
 - (i) that an order is proposed and setting out its effect;
 - (ii) the relevant condition of the licence and the acts or omissions that, in its opinion have been or would be contravened; and
 - (iii) the time (not being less than 30 days from the date of publication of the notice) within which representations or objections to the proposed order may be submitted; and
- (b) consider any representations or objections, which are duly made and not withdrawn

(3) Before revoking an order contemplated in sub-rule (1)(b), the Authority shall-

- (a) notify that licensee by publishing such a notification in a manner as the Authority considers appropriate and furnishing him or her with a copy of such notification stating:
 - (i) that the order is proposed to be revoked and setting out its effect; and
 - (ii) the time (not being less than 60 days from the date of publication of the notice) within which representations or objections to the proposed revocation may be submitted by any person interested in such revocation; and
- (b) shall consider any representations or objections which are duly made and not withdrawn.

(4) The Authority shall, as soon as practicable after an order is made under sub-rule (1), publish the order in such manner as it considers appropriate and serving a copy of the order on the operator affected by it.

PART 17**Fair Competition and Equality of Treatment****Violations of fair competition**

118. (1) The Authority, in its discretion or upon the registration of a complaint, may investigate any telecommunication services provider or operator alleged to have committed any act or omission, or to have engaged in a practice in breach of the principles of fair competition or equal access.

(2) Any person having a complaint regarding a breach of fair competition or equal access against any telecommunication services provider or operator shall lodge a complaint at the Authority.

(3) The Authority shall, if it appears that a breach of competition or equal access has been committed, investigate the act or omission and give written notice to the telecommunication services provider or operator stating:

- (a) that the Authority is investigating a possible breach of fair competition or equal access;
- (b) the reasons for the suspicion of a contravention or breach, including any matter of facts or law, which are relevant to the investigation;
- (c) further information required from the telecommunication services provider or operator in order to complete the investigations; and
- (d) where appropriate the steps to be taken in order to remedy the breach.

(4) The telecommunication services provider or operator may, within 30 days from the date of the notice, make representations in response to the notice and provide the Authority with all information required under the notice Contemplated in sub-rule (3).

(5) Any person affected by the contravention or breach of fair competition or equal access may make a representation to the Authority in relation thereto.

(6) The Authority shall, after considering any representations of the telecommunication services provider or operator or any other person, fix a date on which to make a decision on the matter.

(7) The Authority may, upon satisfaction that a telecommunication services provider or operator is competing unfairly issue an order:

- (a) requiring the telecommunication services provider or operator to cease and desist from the activity found to constitute the unfair competition or failure to provide equal access;
- (b) requiring the telecommunication services provider or operator to take remedial action to remedy the unfair competition or failure to provide equal access;
- (c) requiring the telecommunication services provider or operator to pay a fine not exceeding the equivalent of M 500,000 for every month or part thereof during which the contravention of the fair competition rules continues; and
- (d) declaring any anti-competitive agreements or contracts null and void.

(8) The provisions of sub-rules (1) to (7), do not affect the right of a person to take any other action against the telecommunication services provider or operator under applicable Lesotho Law.

Proceedings in unfair competition matters

119. (1) The Authority shall-

- (a) hear;
- (b) resolve;
- (c) settle by hearing; or
- (d) settles by other administrative mechanism,

any disputes or controversies between telecommunication services providers or operators, including but without limitation to, disputes concerning:

- (i) allegations of unfair competition or abuse of dominant position by a telecommunication services provider or operator;
- (ii) access to, use or abuse of, and other technical economic or legal matters relating to network interconnection irrespective of whether of not an interconnection contract exists;
- (iii) rates, charges and other payments or compensations arising under agreements between providers and operators; -
- (iv) Unresolvable conflicts in frequency co-ordination;
- (v) technical aspects of the public communications services; or
- (vi) damaging interference to a telecommunication services provider or operators equipment network or services caused by another provider or operator.

(2) Hearings and formal proceedings in connection with fair trade matters shall be handled in accordance with the procedures for hearings contemplated in rule 46.

(3) A telecommunication services provider or operator may not seek resolution of disputes enumerated in this Rule at the High Court unless the provider or operator has exhausted the administrative mechanisms provided by the Authority.

CHAPTER IX - INTERCONNECTION**PART 18*****Interconnection*****Contents of interconnection agreements**

120. An interconnection agreement between public operators shall address all of the following matters unless a particular matter is irrelevant to the specific form of interconnection requested:

- (a) the scope and specification of interconnection;
- (b) access to all ancillary or supplementary services or access to and use of premises or land necessary to support interconnection;
- (c) maintenance of end-to-end quality of service and other service levels;
- (d) charges for interconnection;
- (e) billing and settlement procedures;
- (f) ordering forecasting provisioning and testing procedures;
- (g) identification of the P01 or co-location;
- (h) the amount of interconnect capacity to be provided;
- (i) transmission of CLI;
- (j) provision of network information;
- (k) provision of information regarding system modernization or rationalization;
- (l) technical specifications and standards; (m) inter-operability testing traffic management and measurement, and system maintenance;
- (n) information handling and confidentiality provisions;
- (o) duration and renegotiation of the agreement;
- (p) provisions for the formation of appropriate working groups to discuss matters relating to interconnection and resolution of any disputes; and
- (q) formal dispute resolution procedures

Non-discrimination

121. Interconnection must be provided on a non-discriminatory basis including but not limited to:

(1) the rates charged by an interconnect provider may not vary on the basis of the class of customers to be served, or on the type of services that the interconnecting operator intends to provide;

(2) interconnecting operators must receive treatment that is no less favourable than the treatment which the interconnect provider affords to its subsidiaries its affiliates or other similarly situated telecommunications service providers;

(3) telecommunication services of an interconnecting operator shall receive treatment that is no less favourable than the treatment which the interconnect provider affords to telecommunication services of itself, its affiliates or other similarly situated telecommunications service providers; and

(4) customers of an interconnecting operator shall receive treatment that is no less favourable than the treatment which the interconnect provider affords to its own customers or the customers of its subsidiaries its affiliates, or other similarly situated telecommunications service providers

Quality of service

122. (1) An interconnection agreement shall provide for adequate capacity and service levels and provide reasonable remedies for any failure to meet those service levels

(2) The parties to an interconnection agreement shall comply with all relevant standards of the International Telecommunications Union and such other technical standards as the Authority may determine from time to time.

Negotiations In good faith

123. (1) Parties to an interconnection agreement shall negotiate in good faith and use their reasonable endeavors to resolve all disputes as to the form of interconnection, the subject of that agreement or any other form of interconnection.

(2) An interconnect provider shall provide interconnection information to an interconnecting operator upon receipt of reasonable written request.

(3) An interconnecting operators request for interconnection shall receive reasonable priority over the customer orders of the interconnect provider.

Interconnection charges and charging structure

124. (1) Interconnection shall be provided on rates, terms and conditions that are-

- (a) just;
- (b) reasonable; and
- (a) non-discriminatory

(2) Interconnection rates shall be charged for each type of telecommunications Service for which interconnection is provided and shall be computed based on the forward-looking incremental economic cost to the interconnection Provider, taking into account only those costs directly attributable to interconnection plus a reasonable profit margin-

Provided that interconnection charges based upon a different formula may be 'approved by the Authority.

(3) charges for interconnection shall be structured to match the pattern of underlying costs incurred and to distinguish and separately price the following aspects of interconnection-

- (1) fixed once off charges for the establishment and implementation of physical interconnection; and

- (2) periodic rental charges for use of facilities equipment and resources including Interconnect Capacity; and variable charges for telecommunications services and supplementary services.

(4) All charges for interconnection shall be transparent and sufficiently unbundled so that the Interconnecting Operator only pays charges related to the relevant interconnection.

(5) Charges shall be negotiated in accordance with the following principles-

- (a) charges shall be independently verifiable;
- (b) fairness;
- (c) charges shall be properly derived from underlying costs;
- (d) charges shall be built up from the cost of separately identifiable network elements; and
- (e) charges shall not be designed to facilitate, cross-subsidies by an Operator of its network or other services, specifically-
 - (i) Public Operators- Major Operators of Essential services shall provide those Essential services for interconnection to any requesting Public Operator at the Long Run Incremental cost (LRIC) of those Essential services;
 - (ii) LRIC shall be calculated on the basis of relevant forward looking economic costs calculated for an effluent telecommunications service provider and including a cost of capital. LRIC shall be calculated in accordance with the Rules and the Guidelines of the Authority;
 - (iii) Service Providers- Major Operators of Essential services shall provide those Essential services for interconnection to Service Providers at no more than the Major Operators best retail prices less avoidable costs provided that this price is not less than the LRIC of the Major Operator; and
 - (iv) Major Operators may charge Service Providers no more than the fully allocated costs of the Major Operator for establishing a P01

(6) Charges for interconnection shall not exceed retail charges for the provision of the equivalent services or facilities to be provided by that interconnection

(7) An interconnection agreement shall provide for a determination of the Authority to operate retrospectively if the Authority so determines

(8) An interconnecting operator is free to acquire services from an interconnect provider at any retail price offered by the interconnect provider with cut prejudice to any rights to acquire the same or similar services under an interconnection agreement

Interconnection procedures

125. (1) Where an interconnecting operator requests a new form of interconnection, it shall request that new form of interconnection in writing and provide the interconnect provider with reasonable information in relation to-

- (a) the form of interconnection;
- (b) the approximate date the interconnection is required; and
- (c) an estimate of the capacity required

(2) Requests for new interconnection services may be notified to the Authority by the requesting party.

(3) The interconnect provider shall within 15 calendar days of the request inform the Interconnecting Operator in writing-

- (a) whether it is willing and able to supply the form of interconnection;
- (b) whether it will be able to do so within the time frames required by the interconnecting operator; and
- (c) whether it is able to commence negotiations on the date requested.

(4) Requests for interconnection may be refused only on reasonable grounds, which shall be justified in writing.

(5) Prior to referring a dispute as to reasonableness or inability to negotiate to the Authority for a formal determination either party may request the Authority's assistance in resolving the dispute through mediation.

(6) In the event the parties cannot agree on the date upon which to commence negotiations the Authority has the power to compel both parties to commence negotiations on an interconnection agreement on a date prescribed by the Authority.

(7) Disputes as to the reasonableness of a request for interconnection shall be referred to the Authority for a decision.

(8) An interconnect provider may be excused from any obligation to negotiate or enter into an interconnection agreement if the Authority in its discretion determines that such an agreement:

- (1) is prohibited by law;
- (2) the licence issued to the interconnect provider exempts the interconnect provider from the obligation to interconnect;
- (3) the licence issued to the interconnecting operator does not authorize the Telecommunications services for which interconnection is requested;
- (4) the requested interconnection is technically unfeasible due to technical Specifications required by the Authority or technical limitations inherent in the telecommunications systems to be interconnected; or
- (5) interconnection would endanger life or safety or result in injury or harm to the interconnect provider's property or unreasonably impair the quality of the licensed services provided by the interconnect provider.

(9) If a party claims, after commencement of negotiations, that another party is unwilling to negotiate or agree on any term or condition on which interconnection is to be provided, the party may refer such issue to the Authority for a formal decision.

(10) Where a party or any other person alleges that there has been a contravention or failure to comply with-

- (a) the provisions of the Act;
- (b) the appropriate Guidelines; or
- (c) an interconnection agreement,

the Authority shall investigate and make a decision in response to the allegation.

(11) Where the interconnect provider informs the Interconnecting operator that it is able to provide the interconnection it shall ensure that the system conditioning and provisioning procedures required to provide that interconnection are undertaken within the time required by the Interconnecting operator.

(12) A major operator that is an interconnect provider shall provide 6 months notice to interconnecting operators of planned changes to its telecommunications system that may materially impact the telecommunications services of the Interconnecting operator.

(13) Disputes in connection with the timely provision of interconnection or notice of planned changes may be submitted to the Authority for decision.

Establishment and location of Points of Interconnection (POIs)

126. (1) POIs shall be established and maintained at any technically feasible point in a major operator's system requested by an interconnecting operator

(2) The interconnecting operator shall provide sufficient details to the interconnect provider in relation to a P01 to enable the interconnect provider to assess what system conditioning may be required and to estimate the costs of establishing the P01

(3) POIs shall be established not later than 60 calendar days from the date of the request

(4) Where interconnection occurs between public operators:

(a) each public operator bears its own costs relating to:

(i) ports;

(ii) data-fills; and

(iii) switches

to support the P01; and

(b) the parties share the cost of the interconnect capacity equally

(5) Where a party seeking interconnection from a major operator requests that facilities be co-located with the facilities of the major operator such co-location shall be provided unless it is technically unfeasible.

(6) Disputes in connection with the establishment and maintenance of POIs or co-location shall be submitted to the Authority for decision.

Calling Line Identity (CLI)

127. (1) CLI and all necessary signaling data shall be passed between interconnecting parties in accordance with accepted international standards and all codes of conduct issued by the Authority.

(2) Disputes in connection with the collection and delivery of CLI shall be submitted to the Authority for decision.

Modification, suspension and termination

128. (1) an interconnection agreement shall establish modification, suspension and termination procedures that minimize any adverse effect of that termination or suspension on customers.

(2) An interconnect provider may not terminate an interconnection agreement unless

- (a) the termination is for fundamental breach of the interconnection agreement or the expiry of the term of that agreement;
- (b) the interconnect provider gives reasonable written notice of its intention to terminate that
 - (i) specifies the grounds of termination; and
 - (ii) affords, in the case of breach a notice period of not less than one month, where the interconnecting operator is a service provider, or not less than 3 months where the interconnecting operator is a public operator or a private operator within which the breach may be remedied;
- (c) the interconnecting operator, after having been given the opportunity to remedy the breach has failed to do so; and
- (d) in cases where the interconnect provider is providing an essential service the Authority has been notified of and has consented to the termination.

(3) Interconnection may not be suspended except where necessary to address a material degradation of telecommunications systems or services

(4) An interconnecting operator may at any time request that an interconnect provider vary any term or condition of an interconnection agreement-

Provided that an interconnect provider may refuse that request which refusal may be the basis for a dispute for the purposes of section 37 of the Act.

(5) The parties to an interconnection agreement, approved by the Authority may amend or modify such agreement by giving the Authority not less than 30 working days written notice prior to the effective date of the amendment along with a copy of the proposed amendment or modification.

Working groups or committees

129. The parties to an interconnection agreement shall form appropriate working groups or committees to discuss matters relating to interconnection and to resolve any disputes that may arise.

Confidentiality

130. (1) A party who receives information in relation to interconnection from another party that is designated as "Confidential" shall keep the information confidential and may disclose it only-

- (a) to employees, agents or advisers who need to know that information for the purpose of the provision of interconnection or advising thereon;
- (b) to parties to whom such disclosure is authorized by the other party;
- (c) where such disclosure is authorized or required by law; and
- (d) to the Authority

(2) Confidential information related to interconnection of a party received by another party, or business information generated by the telecommunications system of a party as a result of interconnection:

- (a) shall be used solely for the purpose of providing interconnection; and
- (b) may not be disclosed to any person involved in the development or provision of retail services of the other party or its subsidiaries or affiliates.

(3) The confidentiality provisions of an interconnection agreement may not prevent or frustrate the public disclosure of any interconnection agreement by the Authority.

Transparency of agreements

131. Interconnection agreements shall be made readily available by-

- (a) a major operator who has entered into a written interconnection agreement for a particular interconnection service; and
- (b) the Authority upon request following the date of effectiveness of the agreement approved by it

Interconnection disputes

132. (1) the submission of interconnection disputes to the Authority shall include an application from the submitting party requesting the Authority to resolve the dispute, containing-

- (a) a brief statement of any issues as to which there is agreement;
- (b) a clear and concise statement of the issues that are disputed and require Authority action;
- (c) the position of the applicant and
- (d) a statement of reasons in support thereof.

(2) The opposing party has 30 calendar days to respond to the application and shall-

- (a) state the position of the opposing party; and
- (b) state reasons, including any statutory or regulatory justification that may exist for its refusal to interconnect

(3) Notwithstanding the provisions of sub-rules (1) and (2), the parties may still reach an agreement and withdraw the dispute by submitting the negotiated agreement to the Authority for its approval

Authority's approval of interconnection agreements

133. (1) Subject to sub-rule (2), the parties to an interconnection agreement shall, at least 30 working days before the effective date of an agreement file an application for the Authority's approval of each proposed interconnection agreement.

(2) A licensee shall at least 30 working days prior to the fifth anniversary of the effective date of such interconnection agreement and on each successive 5 year anniversary thereof, file an application for the Authority's approval of the renewal or extension of existing interconnection agreement.

(3) The Authority may request additional information from the parties to an interconnection agreement that it deems necessary to evaluate the terms and conditions and the charges set forth in the agreement, and may request that the interconnection agreement be modified as specified by the Authority in writing.

(4) If the Authority does not:

- (a) request additional information or modifications within 30 calendar days of its receipt of an application for approval of an interconnection agreement or the renewal thereof; and
- (b) rule on the interconnection agreement within that period,

the agreement shall be deemed to be approved.

1001

(5) Upon receipt of an Authority's request to modify an interconnection agreement contemplated in sub-rule (3), the parties shall, within 10 working days of receipt of the Authority's request negotiate and submit a revised interconnection agreement to the Authority.

(6) If the parties are unable to agree to the requested modification, the Authority may, if it determines that a negotiated agreement is not possible and that an imposed agreement promotes fair competition, impose an interconnection agreement on the parties with the charges payable there under to be set by the Authority.

(7) Upon written notice! Contemplated in sub-rule (6), of the Authority's intention to impose an interconnection agreement, the parties have 30 working days within which to file responses with the Authority.

(8) If the Authority does not request additional modifications or does not rule on the revised interconnection agreement within ten (10) working days of its receipt of the revised interconnection agreement, then the revised agreement shall be deemed to be approved.

(9) Either party may accordingly apply for a review of the Authority's decision.

Provision of fixed links

134. (1) A provider or operator of a mobile radiocommunication system that wishes to establish a fixed telecommunication link, or links to provide licensed mobile radiocommunication services may request the provision of such service from:

- (a) the licensed fixed network operator by submitting such a request in writing stating with specificity the requested location, capacity, and other technical requirements and the fixed network operator shall, no later than 15 days after its receipt of the request reply in writing to the mobile system operator by stating
 - (i) whether the fixed telecommunication link(s) can be supplied in accordance with the requested technical requirements;
 - (i) the offered price; and
 - (iii) the date upon which the installation of the requested link(s) may be completed, which date may be no later than 60 calendar days after its receipt of the request;
- (b) the mobile operator may ask the Authority for permission to establish the fixed telecommunication link on its own upon the failure by licensed fixed network operator to reply to a request within 15 days of its receipt, or to complete the installation of a link within 60 calendar days of receiving the request and the Authority shall determine the reasonableness of the offered price by taking into account the cost that a licensed fixed network operator is charging for providing the fixed telecommunication link.

Sharing of facilities

135. (1) A telecommunications operator or services provider shall provide facilities sharing arrangements to another telecommunications operator or services provider, except to the extent that such arrangements

- (a) are technically infeasible;
- (b) are illegal or otherwise incompatible with the obligations of the telecommunications operator or services provider from which a sharing arrangement is requested under the Act, its licence, or these Rules;

- (c) pose an unreasonable risk to the integrity or security of the network of the telecommunications operator or services provider from which a sharing arrangement is requested; -
- (d) create health and safety problems; or
- (e) require space that is unavailable.

(2) The burden of demonstrating the existence of any of the above conditions is on the telecommunications operator or services provider from which a sharing arrangement is requested.

Roaming agreements

136. (1) Telecommunications licensees may enter into agreements to provide roaming services on a reciprocal basis to every other operator of mobile telecommunications service:

- (a) within the Kingdom of Lesotho that requests such service; or
- (b) in any other foreign country

(2) An agreement to provide roaming services shall require a licensee to provide mobile radiocommunication services upon request to all subscribers in good standing, including roamers, of another operator of a mobile radiocommunication system, while such subscribers are located within any portion of the licensee's authorized geographic service area where facilities have been constructed and service to subscribers has commenced if such subscribers are using mobile equipment that is technically compatible with the licensee's base stations.

CHAPTER X - EQUIPMENT

PART 19

Type Approval of Terminal Equipment

Categories of network and terminal equipment requiring type approval

137. (1) The Authority shall type approve all telecommunication equipment prior to its connection to the public switched telecommunication network in Lesotho, which type approval shall be done only once and subsequent users of the same model of equipment need not apply to the Authority for type approval

(2) Categories of network and terminal equipment that require type approval include but are not limited to-

- (a) telephone instruments;
- (b) fax machines;
- (c) PABXs (including Small Business Systems and Key Systems);
- (d) telex equipment
- (e) modems;
- (f) cordless telephones;
- (g) cellular telephones;
- (h) radio equipment; and
- (l) any other subscriber premises equipment to be attached to any part of the licensed telecommunications network

(3) All terminal equipment shall conform to the relevant ITLI standards or any other standards prescribed by the Authority

Type-approval procedure

138. (1) Applications for type-approval shall be made in the prescribed form, similar to form LTA 18 as shown in the Schedule to these Rules, accompanied by the prescribed fee per equipment type.

(2) Technical specification, all relevant literature and, where required, a sample of the equipment shall be submitted, along with the prescribed fee and the completed type-approval application form.

(3) The Authority shall not be obliged to return to the applicant any samples of equipment and associated literature submitted for the purposes of type approval.

(4) The Authority shall be given a minimum of 4 weeks time to review the application conduct tests and grant type-approval for customer premises equipment and a minimum of 3 months for switches over 1000 ports and for high capacity microwave radio equipment.

(5) Any future changes in models, design etc. shall require fresh type-approval from the Authority

Applications for provisional approval

139. (1) Applications for provisional type-approval shall be submitted to the Authority on the prescribed form similar to form LTA 18 as shown in the Schedule to these Rules

(2) Applications shall, at least, state:

- (a) the name of the equipment to be approved;
- (b) the name of the manufacturer of the equipment to be approved;
- (c) the intended use within Lesotho; and
- (d) the name address, and authorized representative of the individual or organization that shall hold the type-approval certificate

(3) The application shall be supported by at least the following information-

- (a) Appendix A- A technical description of the equipment to be approved;
- (b) Appendix U- Schematic diagrams of the equipment to be approved;
- (c) Appendix C- Full technical specifications of the equipment to be approved;
- (d) Appendix D- True copies of any test reports and authorizations on electromagnetic compatibility and electrical safety, as well as information indicating the specifications against which these tests have been carried out;
- (e) Appendix E- Bills of Materials and other customs forms of the equipment to be approved;
- (f) Appendix F- A copy of the user guide or manufacturers manual for the equipment;
- (g) Appendix G- Details of the authorized Lesotho representative of the individual or entity seeking approval for the equipment; and
- (h) Appendix H- A letter of agency from the manufacturer of the equipment or his principals/ distributors appointing the applicant as his agent! distributor for the equipment.

(4) The Authority shall invoice the applicant within 30 days of receipt of the application and failure by the applicant to remit the invoiced fee within 30 days of its receipt may result in the loss of provisional type approval.

Submission of samples of equipment for type- testing

140. (1) A sample of the equipment shall be submitted for testing at the time of the submission of the application for provisional approval unless the equipment for which type approval is sought has received a certificate of approval from another country that is recognized by the Authority in which case copies of the approval and the relevant underlying test reports shall be submitted together with the application

(2) The Authority shall automatically recognize-

- (a) all type-approvals from the Republic of South Africa; and
- (b) the following type-approvals from European Union countries:
 - (i) Cellular digital land-based mobile telecommunications equipment that has received a Pan-European approval under European Directive 98/1 3/EC, and which falls within the scope of European Common Technical Rules 019 (Ed2) and 020 (Ed2) pertaining respectively to the access and telephony application requirements for terminal equipment for a GSM network comprising constant envelope modulation and operating in the 900 MHz band with a channel separation of 200 kHz and carrying traffic channels according to the TDMA principle; and
 - (ii) INMARSAT satellite earth station equipment that has received a Pan-European approval under European Directive 98/13/EC and which falls within the scope of European Common Technical Regulation 030 pertaining to satellite news gathering transportable earth stations (SNG TES) operating in the 11-12/13-14 GHz frequency bands
- (c) GMPCS equipment, which has been type-approved by
 - (i) a competent authority in a country with which Lesotho has a roaming agreement.
 - (ii) ITU

(3) Upon application the Authority may institute proceedings to determine whether technical rules from other agencies should be recognized in Lesotho for purposes of relieving applicants of the testing requirements

Effect of provisional type-approval

141. (1) If the equipment that is the subject of an application for provisional type-approval has complied with the basic requirements for type-approval:

- (a) provisional type-approval may be granted for a period of six months during which period reports regarding the working status and maintenance of the equipment shall be considered by the Authority; and
- (b) the Authority shall notify the applicant that provisional type-approval has been granted and issue a provisional type approval registration number to be displayed on the apparatus.

(2) The Authority may:

- (a) limit the number of units introduced under provisional approval;
- (b) extend the grant of the provisional type-approval for another six months upon satisfactory performance of the equipment within this period: or

- (c) revoke provisional approval if the type-approval conditions are violated or upon any other good cause shown

(3) During the six months provisional period any person or persons may submit complaints to the Authority regarding the use of the apparatus- Provided that the Authority may also conduct its own independent examination of the use of the apparatus.

(4)The Authority shall deny provisional approval where the apparatus poses a hazard to the telecommunications network or to human health.

Full approval

142. (1) Applications for full approval may be submitted, with a cover letter indicating application for full approval and the date of grant of provisional approval, to the Authority five months after the grant of provisional approval and pending the outcome of the application the provisional approval shall not expire.

(2)Full approval is granted for a period of at least 10 years where the Authority finds that a grant of approval:

- (a) is in the public interest; and
- (b) will not lead to damage of the telecommunications network or to human health in any respect,

after due consideration has been given to the number of complaints received during the provisional approval period and any technical issues that have arisen.

(3)The Authority shall:

- (a) inform the applicant in writing of the kill approval of the apparatus and issue the applicant a registration number to display on the apparatus as it is sold and used] keep the registration number on file and may keep a sample of the apparatus for the rest of its life; or
- (b) deny full approval where the apparatus poses a hazard to the telecommunications network and give the applicant notice of denial and provide specific reasons for the denial.

(4) The Authority may revoke full approval upon good cause shown and upon revocation the applicant is free to petition the Authority for reconsideration or to modify the apparatus and apply for provisional type approval of the modified apparatus

Complaint procedures regarding type-approved equipment

143. (1) a complaint shall be in writing and contain-

- (a) the name and address of the complainant;
- (b) the name (and address if known) of the applicant against whom the complaint is made;

and

- (c) a complete statement of the facts, including supporting data where available showing that the apparatus does not conform to the requirements of this Rule and/or that the apparatus may be a hazard to the telecommunications network

(2) The Authority shall forward a copy of all complaint statements to the applicant and afford the applicant the opportunity 10 rebut in writing each complaint.

Permission to clear customs

144. (1) To ensure that imported radio transmitting apparatus does not damage, or jeopardize the integrity of the telecommunications network, compliance with the application procedures is required except in the circumstances enumerated in sub-rule (2) .

(2) A cellular mobile phone exempted from the type approval requirements include a phone that-

- (a) is temporarily imported by an individual person who is –
 - (i) visiting Lesotho for less than 30 days;
 - (ii) taking up permanent residence in Lesotho for the first time; or
 - (iii) a Lesotho resident returning to Lesotho after being overseas;
- (b) is solely for the personal use of the individual person importing the cellular mobile phone; and
- (c) bears a label or is submitted for clearance by Customs with documentation stating that the cellular mobile phone complies with the requirements.

(3) An equipment is exempted from the type approval requirements of this Part if it-

- (a) is manufactured or imported solely for use by -
 - (i) a Lesotho criminal law enforcement agency; or
 - (ii) the Department of Defence or other national security organization as a temporary field facility; and
- (b) bears a label or is submitted for clearance by Customs with documentation stating that the cellular mobile phone complies with the requirements.

Customer premises equipment and wiring

145. (1) Any person who wishes to supply or provide terminal equipment and services at customer premises (customer premises equipment or 'CPE') shall register with the Authority for licenses for various categories or types of equipment and services to be provided in accordance with the classification categorization established by Authority (e.g. telephone sets, fax machines, PABXs reticulation/wiring services telephone answering machines, etc).

(2) When CPE providers apply for licenses for the terminal equipment they wish to supply, they shall attach in each case a certificate from a telecommunications services operator and provider whose network is going to be used for connection certifying that such terminal equipment has been tested and will be compatible with their network.

(3) Upon registration and payment of the registration fee, service bureau or individual wiring, installation and maintenance personnel shall be issued a registration card by the Authority that is subject to annual renewal.

(4) In the case of application by a telecommunications services operator or provider who wishes to supply CPE also it is sufficient to attach a report specifying-

- (a) that type-approval tests were carried out; and
- (b) whether the results were acceptable.

(5) Telecommunication services operators or providers shall perform acceptance testing of all customer installations (e.g. reticulation, PBAX extensions wiring) to be interfaced with their network to ascertain that such installations meet required standards before connection and each installation shall be individually certified and a certificate issued.

(6) Charges related to acceptance testing of installations shall be part of the tariffs of the telecommunications services operator or provider and has to be approved by the Authority. Charges related to acceptance testing if CPE. installations at the customer premises shall be included in the Agreement to be concluded between the telecommunications services operator or provider and the CPE Provider.

Ownership and maintenance of CPE

146. (1) the ownership of the CPE and responsibility for its maintenance are that of the customer. However, nothing in this Rule excludes conclusion of an agreement between the customer and the CPE provider to arrange rental services or any another alternative

(2) Any CPE Provider supplying any type of terminal equipment or service shall build the capacity to service or maintain or replace that type of equipment & service within 48 hrs of reporting of the fault with it

(3) All terminal equipment shall be easily repairable by the CPE Provider or immediately exchangeable for a similar type permanently or as a temporary measure while awaiting repair to the non-working one

(4) Terminal equipment is not permanently exchangeable for an older model or a model with less or poorer facilities than the one to be repaired

(5) Notwithstanding the provisions contemplated in sub-rules (1) to (4), the customer and CPE Provider may still decide on a solution acceptable to both parties regarding the exchange or replacement of a faulty terminal equipment

(6) CPE Providers shall supply the terminal equipment or provide service to the public without discrimination

CHAPTER XI - GENERAL**PART 20*****Entry Upon Land*****Access and use of public property**

147. (1) When a telecommunications services provider or operator intends to construct or install any telecommunications facility on public property, a copy of the request for approval submitted under section 55(2) of the Act to the administrative authority having jurisdiction over the property shall also be submitted to the Authority.

(2) The submission referred to in sub-rule (1) shall be accompanied by a certificate signed by a responsible officer of the provider or operator:

- (a) that all permits and approvals required by other Government agencies, including such permits or approvals as may be required by environmental law have been applied for; and
- (b) a statement identifying the-
 - (i) nature and purpose of the proposed telecommunications facility;
 - (ii) any existing telecommunications and/or radio licence pursuant to which permission to operate the proposed facility has previously been granted by the Authority;
 - (iii) the technical specifications of the proposed facility;
 - (iv) the extent of any facilities sharing, co-location or other agreements pertaining to the proposed telecommunications facility;
 - (v) the extent of the construction required; and
 - (vi) the length of the construction period.

(3) If a current and valid telecommunications or radio licence covering the telecommunications facility proposed to be constructed on public property has not been issued by the Authority, the documents required by sub-rules (1) and (2) may be submitted as attachments to an application for a new telecommunications or radio licence.

(4) Telecommunications and radio licenses for telecommunications facilities that require the approval of other Government agencies shall be issued on a provisional basis subject to the condition that the applicant obtain all other necessary approvals.

(5) Provisional licences shall become final upon the satisfaction of the conditions stated therein, and to permits and approvals from other government bodies, evidence that a condition has been satisfied shall be submitted to the Authority in the form of a copy of the approval issued by the relevant government body or bodies identified in the condition and upon the submission of the approval referred to in this subsection! a provisional licence is deemed to have become final 7 days following the submission unless the Authority takes further action.

Access and use of private property

148. (1) When a telecommunications services provider or operator intends to construct or install any telecommunications facility on private property, a copy of the document evidencing the consent of the property owner to the acquisition or use of such property obtained under section 56(1) of the Act, or the request for expropriation submitted under section 56(2) of the Act to the relevant authority or body having jurisdiction over the property shall also be submitted to the Authority.

(2) The submission referred to in Rule 48(l) shall be accompanied by a certificate signed by a responsible officer of the provider or operator, that all permits and approvals required by other government agencies including such permits or approvals as may be required by environmental law have been applied for.

(3) The certificate shall also contain a statement identifying-

- (1) the notices transmitted to all affected property owners under section 56(1)(a) of the Act;
- (2) the nature and purpose of the proposed telecommunications facility;
- (3) any existing telecommunications and/or radio licence pursuant to which permission to operate the proposed facility has previously been granted by the Authority;
- (4) the technical specifications of the proposed facility;
- (5) the extent of any facilities sharing, co-location or other agreements pertaining to the proposed telecommunications facility;
- (6) the extent of the construction required; and
- (7) the length of the construction period.

(4) If a current and valid telecommunications or radio licence covering the telecommunication facility proposed to be constructed on private property has not been issued by the Authority the documents required by rule 48(1)(2) and (3) may be submitted as attachments to an application for a new telecommunications or radio licence.

(5) To be considered complete, applications for telecommunications or radio licences that require the acquisition of private property for the installation or construction of facilities shall include a certification that no reasonable alternatives exist and copies of the notice to affected property owners transmitted under section 56(1)(a) of the Act.

(6) Telecommunications and radio licences for telecommunications facilities that require the consent of an owner of private property, or the issuance of an expropriation order by the relevant Government body or agency shall be issued on a provisional basis subject to the condition that the applicant obtain all necessary consents or approvals.

(7) Provisional licences shall become final upon the satisfaction of the conditions stated therein-

- (1) with respect to consent by an affected property owner evidence that a condition has been satisfied shall be submitted to the Authority in the form of a copy of the document evidencing the consent;
- (2) with respect to a request for expropriation by the relevant Government body, evidence that a condition has been satisfied shall be submitted to the Authority in the form of a copy of the expropriation order issued by the relevant Government body identified in the condition; and
- (3) upon the submission of the approval referred to in this subsection a provisional licence shall be deemed to have become final seven days following the submission unless the Authority takes further action

Access and use of existing conduits, towers, and other facilities

149. (1) It is the policy of the Authority that full use should be made of existing facilities ducts, rights-of way, and towers on a shared basis in order to maximize efficiency, permit faster network expansion. lower costs, minimize environmental impact and reduce disruption to existing homeowners and road users.

(2) Facilities owned by-

- (a) telecommunications operators and service providers are subjected to the Rules in PART 14 as it applies mutatis mutandis to facilities sharing arrangements:
- (b) Government agencies or Departments that are used for:
 - (i) military:
 - (ii) national security:
 - (iii) police: or
 - (iv) other public safety purposes, are not subjected to the rules in PART 14 and telecommunications operators and service providers may request shared access or use arrangements from the relevant Government agency or department. The Government agency may in its discretion refuse such requests, except that responses to such requests should not discriminate between individual telecommunications operators or service providers: and
- (c) Government agencies or departments that are used for civilian or non-public safety purposes, telecommunications operators and service providers may request shared access or use arrangements from the relevant Government agency or department. Responses to such requests should not discriminate between individual telecommunications operators or service providers.

Requests for access and use of existing Government facilities

150. (1) Telecommunications operators and service providers may request shared access or use arrangements of towers poles, ducts and other facilities from the water authority power authority or other relevant Government agency or department.

(2) Facilities sharing agreements between a telecommunications operator or services provider and a Government agency or department shall not discriminate between individual providers or operators with regard to the granting of public rights of way for the construction, installation or use of such facilities.

PART 21***Telecommunication Services Providers*****Rules for telecommunication services providers**

151. The special rules for telecommunication services providers shall be published and separately made available to the public the network operators and other service providers.

Payment of fees

152. (1) A licence granted by the Authority shall be issued upon payment to the Authority by the applicant of the fee as shall be prescribed by the Authority from time to time

(2) Licensees shall make yearly payments of the annual operating fees due for the current year by 1st July of each calendar year but otherwise no later than three months after the end of the licensee's financial year.

(3) At the commencement of these Rules, the Licence fees and annual operating fees shall be prescribed and made available to the public and the Authority shall have the power to review these fees from time to time.

(4) Where the terms of a licence call for the payment of a licence or an annual operating fee to be based on a percentage of licensee's gross annual revenues the calculation base for licensee's gross annual revenues shall include-

- (a) payments from subscribers and other users;
- (b) the amount of billed services including uncollected payments from subscriber and other customer accounts; and
- (c) revenue from any other sources.

PART 22***Numbering Plan*****Compliance with national numbering plan**

153. The Authority shall be responsible for-

- (a) administering;
- (b) amending;
- (c) revising; and
- (d) co-coordinating

the national numbering plan in accordance with the requirements of international laws and recommendations from the International Telecommunication Union and other international entities and in accordance with the principles of free and fair competition.

Numbering proposals

154. (1) Before publishing the numbering proposals such as-

- (a) a numbering plan which the Authority plans to prescribe;
- (b) any rules regarding any numbering plan; or
- (c) making any changes with respect to any numbering plan,

The Authority shall consider recommendations and opinions from the licensees relating to the national numbering plan to ensure that such numbering plan complies with the standards and conditions contemplated in sub-rule (2).

(2) The standards and conditions contemplated in sub-rule (1) which shall be complied with are to-

- (a) allow sufficient numbers to be made available to the licensees, having regard to the expected growth and demand for telecommunications services for a number to be allocated without undue delay;
- (b) enable numbers to include as few digits as practicable and ensure that their allocation does not confer an undue advantage on any operator;
- (c) keep the cost of changing any of the telecommunications systems in order to accommodate the number proposals within reasonable limits; and

83

- (d) minimise any inconvenience that may be caused by implementation of the numbering proposals to the licensees and to persons using the telecommunications systems.

(3) The Authority shall review any numbering proposal and determine whether it complies with the conditions contemplated in sub-rule (1) and may request modification of the numbering proposal.

Compliance with other Rules

155. (1) The number plan of each licensee shall comply with the rules concerning the implementation of the national numbering plan

(2) The numbering plan of each licensee shall comply with-

- (a) applicable International Telecommunication Union standards;
- (b) Protocols;
- (c) Rules and recommendations; and
- (d) applicable rules and recommendations of the International Telecommunication Union regional administrative body of which Lesotho is a member,

as determined by the Authority.

PART 23

Conformity of all Licences with the Act

Conformity of all Licenses with the Act

156. (1) The Authority recognizes all existing licenses issued by any authorized body prior to the coming into effect of these Rules subject to conformity with the Act and these Rules

Submission of all existing licenses for review

157. (1) All licenses referred to in rule 156 above shall within a period of 3 months after the coming into effect of these rules be submitted for a review by the Authority.

(2) Failure to abide by sub-rule (1) above shall be an offense penalised in accordance with the provisions of the Act.

CT PHATELA

REGISTRAR

KIKINE TEBOHO (MRS)

CHAIRPERSON OF THE BOARD

THE LESOTHO TELECOMMUNICATIONS AUTHORITY RULES

SCHEDULE I

General forms

The following forms are, subject to the provisions of section 34 of the Act, prescribed for the purposes of the Act, the regulations and the rules:

Form	Description of Form	Section of Act/Regulations) Rules
LTA 1	Annual Compliance Report	Rule 67(2)
LTA 2	Gross Annual Revenue	Rule 67 (2)
LTA 3	Guarantee Agreement	Schedule 3, Guideline 100
LTA 4	Copies of Documentation	Rule 16(2)
LTA 5	Consumer Complaints	Rule 20(2)(a)
LTA 6	Interconnection Disputes	Rule 25(l)(a)
LTA 7	Expert Examination	Rule 48(3)
LTA 8	Application for a Licence	Rule 59
LTA 9	Application for Transfer of Licence	Rule 61(1) and (2)
LTA 10	Licensee Report Form	Rule 67 (1)
LTA11	Application for the *Allocation of Frequency) Frequency Bands! Co-ordination of Radio Frequency Spectrum	Rule 68(1)
LTA 12	Application for Transfer and Assignment of Station Authorization	Rule 73(1)
LTA 13	Application for a Combined Construction Permit and Radio Station Licence	Rule 74(1)
LTA 14	Application for the Renewal of Station Authorizations	Rule 74(2)
LTA 15	Application for Consent to Assignment of a Radio Station Authorization(s)	Rule 74(3)
LTA 16	Application for Consent to the Transfer of Control of a Corporation / Business Entity holding Radio Station Authorizations	Rule 74(5)
LTA 17	Transfer and assignment of station authorization	Rule 86
LTA 18	Application for Type-Approval! Provisional Type- Approval	Rule 138 (1) /139 (1)
LTA 19	Application for Rate Approval	Rule 111(l)