

EXECUTIVE ORDER NO. 59

PRESCRIBING THE POLICY GUIDELINES FOR COMPULSORY INTERCONNECTION OF AUTHORIZED PUBLIC TELECOMMUNICATIONS CARRIERS IN ORDER TO CREATE A UNIVERSALLY ACCESSIBLE AND FULLY INTEGRATED NATIONWIDE TELECOMMUNICATIONS NETWORK AND THEREBY ENCOURAGE GREATER PRIVATE SECTOR INVESTMENT IN TELECOMMUNICATIONS

WHEREAS, in recognition of the vital role of communications in nation-building, it has become the objective of government to promote advancement in the field of telecommunications and the expansion of telecommunications services and facilities in all areas of the Philippines;

WHEREAS, there is a need to enhance effective competition in the telecommunications industry in order to promote the State policy of providing the environment for the emergence of communications structures suitable to the balanced flow of information into, out of, and across the country;

WHEREAS, there is a need to maximize the use of telecommunications facilities available and to encourage investment in telecommunications infrastructure by service providers duly authorized by the National Telecommunications Commission (NTC);

WHEREAS, there is a need to ensure that all users of the public telecommunications service have access to all other users of the service wherever they may be within the Philippines at an acceptable standard of service and at reasonable cost;

WHEREAS, the much needed advancement in the field of telecommunications and expansion of telecommunications services and facilities will be promoted by the effective interconnection of public telecommunications carriers or service operators;

WHEREAS, the Supreme Court of the Philippines, in the case of Philippine Long Distance Telephone Co. v. The National Telecommunications Commission [G.R. No. 88404, 18 October 1990, 190 SCRA 717, 734], categorically declared that "Rep. Act No. 6849, or the Municipal Telephone Act of 1989, approved on 8 February 1990, mandates interconnection providing as it does that 'all domestic telecommunications carriers or utilities . . . shall be interconnected to the public switch telephone network.'";

WHEREAS, under Executive Order No. 546 dated 23 July 1979, as amended, the NTC has the power, as the public interest may require, "to encourage a larger and more effective use of communications facilities, and to maintain effective competition among private entities whenever the NTC finds it reasonably feasible"; and

WHEREAS, there is a need to prescribe the consolidated policy guidelines to implement Rep. Act No. 6849 and Executive Order No. 546, as amended.

NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. The NTC shall expedite the interconnection of all NTC authorized public telecommunications carriers into a universally accessible and fully integrated nationwide telecommunications network for the benefit of the public.

Section 2. Interconnection between NTC authorized public telecommunications carriers shall be compulsory. Interconnection shall mean the linkage, by wire, radio, satellite or other means, of tow or more existing telecommunications carriers or operators with one another for the purpose of allowing or enabling the subscribers of one carrier or operator to access or reach the subscribers of the other carriers or operators.

Section 3. Interconnection shall be established and maintained at such point or points of connections, preferably at the local exchanges level and at the junction side of trunk exchanges as are required within a reasonable time frame and shall be for sufficient capacity and in sufficient number to enable

messages conveyed or to be conveyed to conveniently meet all reasonable traffic demands for conveyance of messages between the system of the parties involved in the interconnection.

Section 4. Interconnection shall permit the customer of either party freedom of choice on whose system the customer wishes his call to be routed regardless which system provides the exchange line connecting to the local exchange. Such a choice may be done initially through the use of distinct carrier access code assigned to the relevant connectable system and ultimately, as the local exchange providers upgrade to stored-program-controlled (SPC) exchanges, comparatively efficient interconnect (CEI) or equal access pre-programmed option.

Section 5. Interconnection shall be mandatory with regard to connecting other telecommunications services such as but not limited to value-added services of radio paging, trunking radio, store and forward systems of facsimile or messaging (voice or data), packet switching and circuit data switching (including the conveyance of messages which have been or are to be transmitted or received at such points of connection), information and other services as the NTC may determine to be in the interest of the public and in the attainment of the objective of a universally accessible, fully integrated nationwide telecommunications network.

Section 6. Interconnection shall be negotiated and effected through bilateral negotiations between the parties involved subject to certain technical/operational and traffic settlement rules to be promulgated by the NTC; Provided, that if the parties fail to reach an agreement within ninety (90) days from date of notice to the NTC and the other party of the request to negotiate, the NTC shall, on application of any of the parties involved, determine the terms and conditions that the parties have not agreed upon but which appear to the NTC to be reasonably necessary to effect a workable and equitable interconnection and traffic settlement.

Section 7. Interconnection among public communications carriers shall be effected in such a manner that permits rerouting of calls from an international gateway operator which is rendered inoperative, whether in whole or in part, in the event of strikes, lock-outs, disasters, calamities and similar causes, to another international gateway operator not so affected. A public telecommunications carrier shall be allowed such permits to operate an international gateway as may be necessary to service its own network requirements; Provided, that its subsidiaries shall not be given a permit to operate another international gateway.

Section 8. In prescribing the applicable technical/operational and traffic settlement rules, the NTC shall consider the following:

8.1 The technical/operational rules should conform with the relevant recommendations of the Consultative Committee on International Telegraph and Telephone (CCITT) and the International Telecommunications Union (ITU).

8.2 For traffic settlement rules:

(a) Either meet-on-the-air and/or midpoint circuit interconnection between parties;

(b) For local exchange point of interconnection, settlement shall be on the basis of volume of traffic on the local connection based on per minute with day and night rate differential. In case of store and forward services for facsimile, data and voice mail, settlement shall be on the basis of equivalent monthly trunk line charges as generally charged by the local exchange carrier (LEC) to its customer owning their own PABX;

(c) For junction exchange point of interconnection, settlement shall be on the basis of volume of traffic carrier over:

(i) short haul connection not exceeding 150 kilometers; and

(ii) long haul connection exceeding 150 kilometers.

Similarly, a per minute rate shall be evolved with day and night differential. The determination of the per minute rate is based on the principle of recognizing recovery of the toll related cost and fair return of the investment of the facilities employed in making the toll call exchange between the systems.

- (d) Subsidies which shall be approved on the basis of the sound public policy shall be allowed in two (2) ways:
- (i) for operator assisted calls - an operator surcharge kept by the system that employs the operator; and
 - (ii) access charge - the principle of access charge is an assistance to the unprofitable rural telephone development, remote pay stations, etc., thereby assuring the universal service obligation of the PSTN operators. The introduction of the access charge may result in a charge that will be passed on to the subscribers of the PSTN.

Section 9. Interconnection shall at all times satisfy the requirements of effective competition and shall be effected in a non-discriminatory manner.

Section 10. The Points of Connection (PC) between public telecommunications carriers shall be defined by the NTC, and the apportionment of costs and division of revenues resulting from interconnection of telecommunications networks shall be approved or prescribed by the NTC.

Section 12. Interconnection and revenue-sharing agreements approved or prescribed by the NTC may be revoked, revised, or amended as the NTC deems fit in the interest of the public service.

Section 13. In the implementation of this Executive Order, the NTC may, after due notice and hearing, impose the following penalties in case of violation of any of the provisions hereof:

13.1. Imposition of such administrative fines, penalties and sanctions as may be allowed or prescribed by existing laws;

13.2. Suspension of further action on all pending and future applications for permits, licenses or authorizations of the violating carrier or operator and in which particular case, the NTC shall be exempted from compliance with the provisions of Executive Order No. 26 dated 7 October 1992 on the period for the disposition of cases or matters pending before it;

13.3. With the approval of the President, directive to the appropriate government financial or lending institutions to withhold the releases on any loan or credit accommodation which the violating carrier or operator may have with them;

13.4. Disqualification of the employees, officers or directors of the violating carrier or operator from being employed in any enterprise or entity under the supervision of the NTC; and

13.5. In appropriate cases, suspension of the authorized rates for any service or services of the violating carrier or operator without disruption of its services to the public.

Section 14. The NTC is directed to promulgate the implementing rules to this Executive Order within ninety (90) days from the date of effectivity hereof.

Section 15. All executive orders, administrative orders, and other issuance inconsistent herewith are hereby repealed, modified or amended accordingly.

Section 16. This Executive Order shall take effect immediately.

DONE in the City of Manila, this 24th day of February in the year of Our Lord, Nineteen Hundred and Ninety-Three.

(Sgd.) FIDEL V. RAMOS
By the President

(Sgd.) ANTONIO T. CARPIO
Chief Presidential Legal Counsel