
Determination of 26.5.2006

Alterations to the Reference Conduit Access Offer of PTC and to the procedures for the creation, maintenance and update of a descriptive database of conduits and associated infrastructure

Preamble

Pursuant to paragraph 1 of article 26 of Law no. 5/2004, of 10 February, it is incumbent upon PT Comunicações, S.A. (PTC) to provide, through an agreement, the access to conduits, poles and other premises and locations it owns or the management of which falls under its responsibility. Within this context, the same statutory instrument (article 26, paragraph 4) establishes upon the concessionaire the obligation to provide an offer for access to conduits, containing access and use conditions, under such terms as defined by ICP-ANACOM.

In this sense and taking due account of a variety of factors, among which the following may be stressed:

- (i) difficulties of remaining operators in doing further investments in conduits in certain geographic areas, in an economically efficient manner;
- (ii) the need to avoid inefficient infrastructure duplication and to reduce the global amount of investment borne by each company, thereby reducing costs;
- (iii) claims made by operators, related to the use of the concessionaire's infrastructures, as regards the imposition of restrictions, by the concessionaire, in the infrastructure assignment conditions, namely sub-conduits, pipe space and visit chamber space, and also as regards discriminatory conditions and pricing of too high fees;

- (iv) the need to promote transparency in the access conditions to conduits and associated infrastructures,

ICP-ANACOM, by decision of 17/07/04¹, following the consultation of interested parties², established the principles and general conditions which the access and use of conduits and associated infrastructure of the concessionaire must comply with, as well as the minimum elements to be comprised in the reference offer of access to conduits and associated infrastructure (RCAO).

This decision likewise determined that PTC should submit a RCAO to ICP-ANACOM, which should comply with the principles of transparency, non-discrimination and cost orientation, in order to assess the compliance with the determined minimum elements, within a 90-day deadline.

Due account should be taken of Decree-Law no. 68/2005, of 15 March, which specifically established the legal regime for construction, management and access (acknowledging particularly the relevance of access to conduits), taking due regard to infrastructures installed in the public domain of the State for the storage of communications networks.

PTC requested, on 29/10/04, the suspension of the validity of two determinations comprised in Determination of 17/07/04, namely:

- (i) Description of the space available in the conduits and associated infrastructure, considered necessary for the development of the own infrastructures and that will probably be used during the period when the reference offer is valid;
- (ii) Creation, maintenance and update of a database with descriptive information on conduits and associated infrastructure and respective availability for beneficiary entities.

On 15/11/04, PTC brought special administrative proceedings³ in respect of acts of administration against ICP-ANACOM, wherein the annulment of the determination of 17/07/04 was requested.

NOVIS Telecom, S.A. (NOVIS), on 16/11/04, also brought special administrative proceedings in respect of acts of administration against ICP-ANACOM, challenging the same determination of 17/07/04, and likewise presented a protective measure, requesting the issue of a new determination from ICP-ANACOM concerning the access to conduits and additional infrastructure of PTC.

¹ See decision of 17/07/04 at <http://www.anacom.pt/template12.jsp?categoryId=162883>

² See consultation report at http://www.anacom.pt/streaming/rel_condutas.pdf?categoryId=109639&contentId=211362&field=ATTACHED_FILE (in portuguese)

³ See link at <http://www.anacom.pt/template20.jsp?categoryId=146230&contentId=241585> (in portuguese)

On 09/08/05, ICP-ANACOM was notified of the judgment given on 05/08/05 by the 2nd Office of the Administrative Court of Lisbon concerning the protective measure (suspension of validity) requested by PTC, that rejected that plea.

ICP-ANACOM thus ceased to be restricted from enforcing the two determinations the suspension of validity of which had been requested by PTC, the latter being once more subject to comply therewith.

Considering that the time limit established for the compliance with the two above-mentioned obligations was suspended during the period between the summon of ICP-ANACOM to challenge the protective measure presented by PTC (04/11/04) and the moment of the notification of the judgment passed on these proceedings (11/08/05), such time limit ended on 20/09/05.

Following the referred judgement, PTC informed ICP-ANACOM, on 01/09/05, that:

- i) as regards the construction of a database with descriptive information on conduits and associated infrastructure, while this is allegedly a long term process, PTC is taking all the necessary steps relating both to the record preparation and to the subsequent database construction;
- ii) as regards the obligation to describe the space available in conduits and associated infrastructure, considered necessary for the development of PTC's own infrastructures and that will probably be used during the period when the reference offer is valid, notwithstanding the limitations resulting from the lack of detailed, up-to-date and processed information on its conduit network, PTC is preparing Annex 3 to the RCAO proposal to be submitted to ICP-ANACOM.

By determination dated 02/09/05, ICP-ANACOM restated the provisions established in determination of 17/07/04, and approved a draft decision⁴ on alterations to be introduced in the RCAO of PTC, pursuant to paragraph 3 of article 68 of Law no. 5/2004, of 10 February and to point g) of article 9 of the Statutes of ICP-ANACOM (Decree-Law no. 309/2001, of 7 December).

In this context, in order to fully comply with the provisions of the determination of ICP-ANACOM of 17/07/04, PTC must create, maintain and update a database with descriptive information on conduits and associated infrastructure, based on the respective infrastructure records and kept permanently up-to-date in the course of the different access requests, the disclosure of which to beneficiary entities in general and to ICP-ANACOM, according to effectiveness criteria, must take due regard to the effective needs of beneficiary entities.

⁴ Vide <http://www.anacom.pt/template12.jsp?categoryId=162784>.

Aiming at the implementation, as swiftly as possible, of conditions of transparency and effective availability of information, ICP-ANACOM deems in special that PTC should implement the referred database [which is, as referred by PTC in its judicial pleadings, a sort of “national map” with the route of all conduits it is the owner of, as well as with the up-to-date indication as to the occupation of each one of them (that is, with the reference of the number of installed cables and respective dimensions, at a given time, in each conduit)].

As far as the time limit for the provision of the database proposed by PTC is concerned, ICP-ANACOM deems it not to be reasonable, as it is inappropriate as regards the interest of beneficiary entities, namely taking into account the need to promote the optimisation of the RCAO through the provision of the referred database.

With reference to the description of the space available in the conduits and associated infrastructure, considered necessary for the development of PTC’s own infrastructures and that will probably be used during the period when the RCAO is valid, in compliance with the determination of ICP-ANACOM of 17/07/04, and taking into account the suspension of the calculation of the time limit during the period between the summon of ICP-ANACOM to challenge the protective measure submitted by PTC and the notification of the judgment passed on these proceedings (11/08/2005), PTC was under the obligation to present to ICP-ANACOM the referred description up to 20/09/05.

Therefore, taking into account the grounds presented in the prior hearing report, attached hereto, which is hereby approved and which is an integral part hereof, pursuant to point a) of paragraph 1 and points a) and b) of paragraph 2 of article 5 of Law no. 5/2004, of 10 February, and under paragraph 4 of article 26 of the mentioned Law, and point b) of article 26 of the Statutes approved by Decree-Law no. 309/2001, of 7 December, the Board of Directors of ANACOM hereby determines:

1º PTC shall amend the RCAO within a 15-day deadline, according to the alterations below:

I. Entry into force of the offer

1. The RCAO shall enter into force thirty days after the final decision of ICP-ANACOM on the “Alterations to be introduced in the PTC RCAO” has been issued.

II. Expressions and definitions

2. Where the RCAO refers the expression “underground infrastructures”, this shall be replaced by “conduits and associated

infrastructure”, according to the wording adopted in the determination of ICP-ANACOM of 17/07/04.

3. The following definition of associated infrastructure shall be considered: “manholes and other infrastructures deemed indispensable for the installation, withdrawal, maintenance or repair of electronic communications cables in conduits and sub-conduits”, according to the definition comprised in the above-mentioned determination.
4. As regards the definition of “manholes”, the reference to the underground manholes shall be removed, thus making the definition consistent with the determination of 17/07/04, that is, “boxes for access to the cables installed along the conduits, which are integral part of the electronic communications network”.

III. General conditions

5. The physical access to conduits and associated infrastructure of PTC, for the installation, intervention or withdrawal of cables, or for the performance of any service governed by the RCAO, shall be carried out by workers of the beneficiary entity, who may be escorted by representatives of PTC (clause 3 and 7 of the standard contract must be amended accordingly), where deemed appropriate by the latter.
6. The physical access to conduits may be extended to collaborators from subcontracting companies, who must be duly identified and accredited by PTC, based on general principles and accreditation rules in force (clause 3 and 7 of the standard contract must be amended accordingly).
7. PTC shall publish and keep updated, in annex to the RCAO, a list of bodies who have been accredited, in order to promote transparency conditions as regards the conditions of access to conduits.
8. PTC shall establish an accreditation system in order to enable the functioning thereof within six months from the approval of this decision.
9. In case PTC decides to establish rules to be complied with by beneficiary companies when accessing conduits, such rules must be defined in abstract and applied in a concrete, reasonable and proportional fashion, resulting in efficient and effective procedures.
10. The rule provided for in pg. 6/29 of the offer, regarding the space to be reserved, by PTC, for maintenance and repair work, shall be amended so as to reserve only the space that corresponds to the larger diameter cable.

11. The RCAO shall establish, in any case, that the concessionaire may not install in conduits, pipes, sub-conduits and associated infrastructure, cables or any other equipment that do not correspond to the current or expected needs in terms of service provision and that, as a result of the undue excessive space occupation, prevent or limit the access to infrastructures by beneficiary entities.
12. Following a request by beneficiary entities to occupy space in conduits and associated infrastructures, where no space is found and one or more “dead” cables (that is, with no possibility of usage for reasons of technical disability) or clearly obsolete cables (that is, cables that have not been used for more than one year, and that are not expected to be used within a reasonable period of time) are identified, such cables must be removed.
13. In case no agreement is reached as regards deeming a cable as “dead” or obsolete, the issue shall be submitted to ANACOM, for monitoring and decision-making purposes, attaching the necessary particulars that allow for checking whether the cables are effectively being used.
14. Where it is physically or technically unfeasible to remove “dead” or clearly obsolete cables, PTC shall inform the beneficiary entity of this fact, presenting due grounds thereto, together with the reply to the feasibility request.
15. The RCAO shall provide for all the reasons for the lack of feasibility as far as cable removal is concerned. Without prejudice to other additional factors that PTC may present, and which shall be subsequently assessed by ICP-ANACOM, the factors that may be included in the RCAO to substantiate the physical and technical lack of feasibility to remove cables are as follows:
 - i) The free space in the conduit/sub-conduit is lower than the space occupied by the cable of the wider diameter in the conduit/sub-conduit.

The free space in the conduit/sub-conduit amounts to the difference between the total space of the conduit/sub-conduit, and the occupied space of the conduit/sub-conduit. The total space of the conduit is achieved through the following formula: $\pi \times R^2$, where R = Diameter conduit or subconduit/2. The occupied space of the conduit/sub-conduit corresponds to $\pi \times (D_{pipe}/2)^2$, where D_{pipe} can be found from the formula:

$$DPipe = 1.6x\sqrt{d_1^2 + d_2^2 + \dots + d_n^2} ;$$

- ii) The cables have exceeded their useful life as estimated by the manufacturer, which may imply their damage upon removal, as they are no longer in appropriate conditions;
 - iii) The cables to be removed are bigger and heavier than the ones to remain installed, which may result in damages to smaller and lighter cables installed in the same conduits/sub-conduits.
16. The costs of removing “dead” or clearly obsolete cables shall be borne by their owner, having regard to the principle of proportional and causal costs. In case the “dead” or clearly obsolete cables are owned by a third party who has ceased to exist in law, the costs shall be shared 50/50 between the beneficiary entity and PTC, save where this entity has been part of the PT Group, in which case the referred costs shall be borne solely by PTC.
 17. Where the “dead” or clearly obsolete cables are owned by beneficiary entities, the concessionaire shall notify the latter of their existence, so the latter may promote their removal.
 18. The beneficiary entity shall remove the “dead” or clearly obsolete cable within thirty calendar days from the date of reception of PTC’s notification.
 19. Having expired this time limit, where the beneficiary entity has not removed the “dead” or clearly obsolete cable, PTC shall promote this removal, in case the owner of the “dead” or clearly obsolete cable has not submitted a request for access.
 20. PTC shall remove the “dead” or clearly obsolete cable within thirty calendar days, either from the date the situation has come to the attention of the company, in case PTC is the owner of the cable under consideration, or the cable has belonged to the dissolved company of the PT Group, or from the expiry of the time limit referred in point 18.

IV. Information on conduits and associated infrastructure

21. PTC shall make available information comprised in the database regarding conduits and associated infrastructure at an Extranet page to which each beneficiary shall have access by means of the respective access code. The date from which the information on conduits shall be made available at the Extranet corresponds to the date the Extranet itself is made available. The date of the last update of the database, as well as the date on which the survey concerning

the provided information took place, shall be provided at all times for information to the beneficiary entities.

22. Any local survey deemed necessary for the provision of information on conduits and associated infrastructure of PTC shall not be charged to the beneficiary entities of the RCAO.
23. The maximum monthly capacity for processing drafts shall take due account of the expected requests of beneficiary entities, rather than the limits proposed by PTC.
24. As far as possibly critical conduits and associated infrastructure are concerned, the access thereto by beneficiary entities shall take place on special conditions yet to be defined, thus PTC may propose to ICP-ANACOM, if it so desires, (a) the precise and substantiated identification of conduits and associated infrastructure deemed critical; (b) special conditions of access to conduits and associated infrastructure deemed critical.

V. Access to conduits and associated infrastructure

25. Insurance against civil liability beneficiary entities are forced to engage and to update permanently shall cover potential damage caused by installed facilities or people at their service.
26. Without prejudice to possible damage covered by the above-mentioned insurance, the injurious and repeated non-compliance on the part of the beneficiary entity with procedure rules may result in PTC requesting the intervention of ANACOM, under the terms provided for in point 8 of the approved minimum elements, a precondition for the valid adoption of measures deemed appropriate to the case.
27. The RCAO shall provide for an ex ante way of assessing potential deterioration of the network and equipment operation and/or potential harm of the network integrity, which shall be clear, objective and substantiated, in order to avoid discretion capable of giving rise to conflicts.
28. In the absence of a provision concerning the procedure referred to in the preceding point, the exceptions to the provision of access and use of conduits and associated infrastructure of PTC, referred to in section 5, points c) and d) of the RCAO, shall be removed.

VI. Requests for occupation feasibility

29. Each request for occupation feasibility may comprise at the most twenty conduit sections, yet limitations to the number of requests each beneficiary entity may make are not allowed.
30. Where a request made by a beneficiary entity for feasibility of occupation of certain conduits and associated infrastructure is not deemed feasible by PTC, as no space is found for the installation of cables of the beneficiary entity, PTC shall demonstrate that the cables/equipment occupying such conduits and associated infrastructure correspond to its current or expected needs as far as the service provision is concerned, and thus that the access of beneficiary entities to such infrastructures is not prevented or limited as a result of an undue excessive occupation of space.
31. Where it is physically or technically unfeasible for PTC to meet the requests for access submitted by beneficiary entities, it shall send, together with the grounds thereto, proposals of alternative pathways as close to the initial request as possible.
32. The concessionaire is entitled to reserve space for its own future end use, for one year at the most, in the conduits and associated infrastructure it operates, provided that this reservation is duly grounded based on the guarantee of an appropriate future development of concessionary services, ICP-ANACOM being entitled to lift the reservation, in case it proves to be unfounded.
33. Beneficiary entities shall not be charged any amounts for costs with are not, by their very nature, incremental costs allocated to such entities, such as keeping in order and cleaning PTC's own infrastructures.
34. The limits in table 3 of the offer, regarding the maximum monthly capacity to assess requests for occupation feasibility per geographic area shall be removed from the RCAO.

VII. Installation of cables in conduits and associated infrastructure

35. The 3rd paragraph of page 10/29 of the offer refers that PTC provides sub-conduits, exclusive per beneficiary entity, for cable installation purposes. The reference to the exclusive use of sub-conduits by the beneficiary entity shall be removed, and the text shall be amended to read: "PTC provides access to conduits and associated infrastructure to beneficiary entities for cable installation purposes".

36. The following condition provided in the final part of the last paragraph of page 10/29 of the RCAO - "PT Comunicações shall not start the installation work where beneficiary entities have not delivered the respective material or where the material is not in an appropriate condition for instalment" shall be removed.
37. The exclusivity provided for in paragraph 5 of the offer, concerning the fact that the installation of cables and sub-conduits, connection of cables and replacement of cable sections, in conduits and associated infrastructure of PTC, should only be carried out by PTC itself, shall be removed, without prejudice to the beneficiary entities submitting on every occasion to PTC the respective standard forms. As referred to in section III, the RCAO shall provide that the physical access to conduits and associated infrastructure of PTC may be carried out by collaborators of the beneficiary entity (or collaborators of subcontracting companies, who must be duly identified and accredited by PTC) who may be escorted by representatives of PTC, where deemed appropriate by the latter (clause 3 and 7 of the standard contract must be amended accordingly).
38. Without prejudice to the establishment of the accreditation system referred to in point 8, PTC shall publish in annex to the RCAO, within six months from the approval of this determination, a handbook of procedures and efficient and effective technical specifications (including procedures for the installation, intervention and removal of cables), which shall be followed by beneficiary entities.
39. Cables shall be identified in manholes with a code enabling the identification of the respective owner.
40. The beneficiary entities shall submit to PTC a request for access and installation in underground infrastructures, so that PTC, if it so desires, may monitor and supervise the cable installation work of beneficiary entities (or collaborators of subcontracting companies, duly identified and accredited by PTC) in its own conduits and associated infrastructure.
41. Beneficiary entities shall not bear in full the burden of costs resulting from unblocking, as this is not solely in their interest.
42. In this sense, the following unblocking cost sharing formula shall be considered: on the basis of the number of beneficiary entities ($i > 1$), each one shall pay PTC a percentage of the unblocking cost of $(1/i) \times 100\%$, while each beneficiary entity shall receive from PTC the equivalent to $(1/i - 1/(i+1)) \times 100\%$ per each new beneficiary entity that subsequently shares the same section.
43. Thus, per example, in case a section is occupied by a beneficiary entity, it shall pay $(1/2)$ of the cost of the possible unblocking. In case

the same section is subsequently occupied by another beneficiary entity, it shall pay (1/3) of the unblocking amount, and PTC shall pay back to the first beneficiary entity the difference (1/2)-(1/3) and so forth.

44. After the cable installation works of the beneficiary entity have reached an end, the latter shall submit to PTC an up-to-date occupation record.

VIII. Route deflection and alteration of occupation

45. PTC shall state the reasons which may lead to the need to eliminate or to deflate a certain route by imposition of third parties, presenting concrete examples thereto.
46. The provision for cases in which, after PTC has deemed a request as feasible and granted the access to the beneficiary entity for the installation and or maintenance of the respective systems, equipments and other resources, this company invokes the restructuring of the network to impose on the beneficiary entity the need to remove the means and to release space in conduits and associated infrastructure, shall be removed.

IX. Removal of means of beneficiary entities installed in conduits and associated infrastructure

47. Where PTC cables are not set in order, so as to enable the removal of “dead” or clearly obsolete cables, that prevent the installation of cables by the beneficiary entity, the latter shall inform PTC thereof. PTC must accordingly set its cables in order, within a 10-calendar-day time limit from the date of reception of the notification.

X. Project and construction of new conduits and associated infrastructure

48. The way beneficiary entities may access information on plans for the construction of new conduits and associated infrastructure shall be made clear, being recommended that such information be provided at the Extranet. In addition, the information on the forecasted construction of new conduits may be informed to the beneficiary entity, by registered letter with acknowledgement of receipt or by any other established means.

49. PTC is entitled to cancel the construction of new conduits and associated infrastructure, provided that the RCAO states the reasons therefor, and grounds are presented in the subsequent notification to the beneficiary entity.
50. The bank guarantee shall cover a three-year period, its existence being justified only where PTC bears costs resulting from the physical access of beneficiary entities to its conduits and associated infrastructure.
51. Beneficiary entities that show an interest in the access to conduits and associated infrastructure, within a three-year period after their construction, shall provide a bank guarantee, which shall correspond to the period between the moment the access is granted by PTC until the elapse of three years from the infrastructure construction.
52. In both cases, the bank guarantee may be released, progressively, as payments are made, and in proportion thereto.
53. Beneficiary entities that show an interest in the access to conduits and associated infrastructure, within a three-year period after their construction, and after the concessionaire has verified the existence of available space (without prejudice to the reservation of space for the future development of concessionary services and maintenance activities), shall pay PTC the amount that would correspond to the use during the period between the end of the construction of new conduits and associated infrastructure and the moment the access is eventually granted.

XI. Indicators and levels of quality of service

54. Indicators of quality of service shall be as follows:
 - (i) Time limit to reply to a request for access and use of conduits and manholes - time duration, in calendar days, from the moment the concessionaire receives from the beneficiary entity a request for access and use of conduits and manholes, to the instant the beneficiary entity receives a reply regarding the feasibility of the request;
 - (ii) Time limit to reply to a request for information on underground infrastructures - time duration, in calendar days, from the moment the concessionaire receives the request up to the instant the beneficiary entity receives a comprehensive reply to the information request;
 - (iii) Readiness level of the monitoring service, which shall be calculated by means of the following formula:

(Number of monitoring services performed on the dates scheduled with the concessionaire / Total number of monitoring services performed)

(iv) Time limit to schedule the monitoring of non-urgent intervention operations to be carried out by the beneficiary entity (installation, maintenance, repair and removal of infrastructures) - time duration, in consecutive hours, from the hour the concessionaire receives a repair intervention request up to the hour scheduled by the concessionaire to perform the necessary monitoring service;

(v) Time limit to schedule the monitoring of urgent intervention operations (repair) to be carried out by the beneficiary entity - time duration, in consecutive hours, from the hour the concessionaire receives a repair intervention request up to the hour scheduled by the concessionaire to perform the necessary monitoring service.

55. The reports on the quality performance of each beneficiary entity shall be submitted nonetheless, broken down by months, no later than fifteen days after the end of the quarter concerned.
56. PTC shall submit to ICP-ANACOM the reports on quality performance, broken down by beneficiary entity and by months, no later than fifteen days after the end of the quarter concerned.
57. The above mentioned indicators shall comply with the time limits/targets indicated in the table below, for 100% of the cases:

	Time limit / Target
Time limit to reply to a request for information on underground infrastructures	5 working days
Time limit to reply to a request for occupation feasibility	15 calendar days
Time limit to schedule the monitoring of non-urgent intervention operations	24 consecutive hours
Time limit to schedule the monitoring of urgent intervention operations	8 consecutive hours
Readiness level of the monitoring service	PTC must guarantee that 95% of the monitoring services take place on the dates requested.

58. Periods of time not be considered for the above time counting shall be exclusively the following: (i) reasons of force majeure; (ii) reasons for which the beneficiary entity is responsible and (iii) situations

where it is impossible to access visit chambers or where conduit segments are blocked. As regards point (iii), PTC shall present a clear justification for deeming impossible the access to chambers. All other presented periods of time, but not considered, shall be removed.

59. The indicators on time limits to install, maintain, repair and remove infrastructure may be removed from the offer. Without prejudice, the beneficiary entity may agree specific indicators and time-limits with PTC, as well as compensation for non-compliance, for services agreed to be performed by the concessionaire.

XII. Compensation for non-compliance with time limits to reply

60. The compensation for non-compliance with the time limit to install cables in underground infrastructures, with the time limit to remove cables from infrastructures, and with the time limit to start an intervention on an installed cable may be removed from point 8 of the RCAO, without prejudice to an agreement between beneficiary entities and PTC on possible compensation.
61. The daily compensation penalty value due to the beneficiary entity for non-compliance of PTC, regarding delays in replies to information requests or feasibility requests shall be 50€, in order to encourage compliance therewith.
62. The limit for the compensation for non-compliance as regards the time limit to reply to a request for information on underground infrastructures and requests for feasibility shall be sixty working days and ninety calendar days, respectively.
63. Non-compliance therewith on the part of PTC results in the payment to the beneficiary entity of penalties provided for in the RCAO.
64. The same time limits and procedures provided for in the RCAO shall be maintained for the resolution of disputes as regards the payment of penalties (paragraph 3 of clause 10 of the standard contract shall be amended accordingly).

XIII. Pricing of services provided in the RCAO

65. Maximum applicable prices (in euros, no VAT included) for services provided in the RCAO shall be as follows:

Services			Prices proposed by PTC on 23/11/04	Maximum prices defined by ICP-ANACOM in the DD of 02/09/05	Prices proposed by PTC RCAO October 2005	Maximum prices defined by ICP-ANACOM
Provision in paper of information on conduits and associated infrastructure			45	37	42	38.2
Assessment of occupation feasibility	(base with no alternative route)		70	61.6	68	63.3
	(base with alternative route)		80	71.3	79	72.8
	(per permanent manhole)		75	43.2	72	46.1
Access to points of entry			120	103.0	117	The price of the monitoring and work supervision service applies
Cable installation in conduits and associated infrastructure (base price)			5	2.9	3.1	Not applicable (1)
Monthly occupation of space in sub-conduit	(Lisbon and Oporto)		315/Km	To be defined following presentation of grounds by PTC	210/Km	10.6/Km and cm ² (2)
	(Other municipalities)		245/Km		160/Km	8.3/Km and cm ² (2)
Monthly occupation of space in conduit	(Lisbon and Oporto)		25/Km and cm2		17/Km and cm2	9.8/Km and cm2
	(Other municipalities)		20/Km and cm2		13/Km and cm2	7.5/Km and cm2
Monthly occupation of space per holder provider			3.2	3.1	2.15	1.8
Intervention in cables installed in conduits	Programmed	Peak hours	155	136.6	156	Not applicable (1)
		Remaining period	270	243.6	272	Not applicable (1)
	Urgent	Peak hours	200	176.8	202	Not applicable (1)
		Remaining period	355	318.7	357	Not applicable (1)
Monitoring and supervision of work to be performed by the beneficiary entity		Peak hours	Not defined	Not defined	120	39,4 for the first hour and 23,5 for the following hours. The maximum amount shall not exceed €120
		Remaining period			205	61.4 for the first hour and 43.1 for the following hours. The maximum amount shall not exceed €205
Removal of cables in conduits and associated infrastructure (base price)			5	2.9	3.10	2.9 (3)
Communication in paper of a project for the construction of new infrastructures			50	42.4	48	43.5
Sending of project for the construction of conduits and associated infrastructure			75	64.3	73	66.3

(1) It should be stressed that the concessionaire may charge the beneficiary entities for the service of monitoring and supervision of work to be performed;

(2) Taking into account the absence of sub-conduits exclusive per beneficiary, ICP-ANACOM has tracked an occupation price of conduits per Km and per cm², in contrast to the prices proposed by PTC, which are independent of the occupied area in the sub-conduit.

(3) To be charged by PTC in the situations where beneficiary entities do not remove "dead cables" within the defined time limits.

66. According to the applicable regulatory framework, particularly the principle of non-discrimination, PTC shall apply in the scope of the RCAO the conditions applied to other companies of the PT Group, except where a lower price results from the analysis of costs and from the application of the principle of cost orientation of prices, in which case this price shall be applied.
67. Without prejudice to the provision of information on conduits and associated infrastructure in paper, such information shall be also provided at an Extranet page, the respective price being cost-orientated.

XIV. Service management, planning and billing

68. In order to prevent situations where beneficiary entities are billed for services requested which were not in fact provided, such as information on conduits and associated infrastructure which possibly may not yet be identified and/or located, the sentence comprised in the first paragraph of pg. 24/29 of the offer shall be completed with the following indication: "and duly provided".
69. The removal of means of the beneficiary entity (provided for in the first paragraph of pg. 25/29 of the RCAO) shall only be billed following the conclusion of the work.

XV. Settlement of disputes and interruption/suspension of service provision

70. As regards information from and originating on each of the parties, it is deemed that it may be used by the party that originated it without the authorization of the other, in order to avoid an additional complexity to the procedure.
71. The repeated delay in paying due amounts, and not a simple default in payment, shall be deemed as cause for interruption or suspension of services provided in the scope of the RCAO. The repeated delay on the part of the beneficiary entity in paying due amounts may result in PTC requesting the intervention of ANACOM, under the terms provided for in point 8 of the approved minimum elements, for the valid adoption of measures deemed appropriate to the case.

72. PTC's need to carry out control operations, adjustments or routine maintenance (provided for in the second paragraph of pg. 28/29 of the RCAO), aiming to ensure the proper functioning of its network, shall be notified ten days in advance to the beneficiary entity, and not just "in a timely fashion".

XVI. Standard contract

73. Considering 2 of the contract provides a reference to the ongoing protective measure presented by PTC. This measure was the subject of a judgment which is final and binding, and which was unfavourable towards PTC, and must thus be removed.
74. The object of the contract and all other references made thereto shall adopt the designation "conduits and associated infrastructure", according to the body of the offer.
75. The alterations made to the body of the offer shall be reflected in the standard contract, namely:

Clause 2 (Annexes and Appendixes)

76. The RCAO shall include annexes (i) and (v) to the standard contract referred in clause 2 thereof, being recommended that annexes (ii), (iii) and (iv) be included, for transparency and coherency purposes.

Clause 3 (Object)

77. Paragraph 3 shall be amended, to provide that the cable installation, removal and intervention work may be performed by collaborators of the beneficiary entity or by collaborators of duly identified and accredited subcontracting companies, who may be escorted by representatives of PTC.

Clause 5 (Construction of new underground infrastructures)

78. Where it is physically or technically feasible, the concessionaire shall dimension the new conduits and associated infrastructure taking into account the accommodation of all signs of interest received by beneficiary entities.
79. Taking into account the commitment demanded from the beneficiary entity as compensation for the reservation of space in new infrastructures, PTC shall undertake the construction of the infrastructures under consideration.

Clause 7 (Access and use conditions and procedures for the management of requests)

80. Paragraph 1 shall be amended so that the physical access to conduits and associated infrastructure be performed by the beneficiary entity.

Clause 9 (Quality of service)

81. Clause 9 of the standard contract is insufficient, thus the RCAO shall include the definition of each indicator and levels of quality of service referred to in section XI of this decision.

Clause 10 (Penalties)

82. Paragraph 3 shall be amended so as to maintain the time limits and procedures provided for in the RCAO for the resolution of disputes related to the payment of penalties.

Clause 12 (Intervention in cables)

83. Clause 12 shall be amended so as to provide that intervention work in cables owned by the beneficiary entity may be performed by workers thereof, where escorted by representatives of PTC, in case the latter so desires.

Clause 13 (Technical Assistance)

84. Paragraph 2 shall be amended so as to provide that the intervention work shall be performed by the beneficiary entity.

Clause 16 (Billing)

85. A one-calendar-month shall be specified to allow PTC to assess a billing complaint submitted by the beneficiary entity.

Clause 17 (Payment)

86. The wording “within the time-limit indicated therein” shall be removed from paragraph 1, such time limit being settled by agreement between the parties.

Clause 19 (Responsibilities)

87. Paragraph 1 shall also apply to the beneficiary entity.
88. The following shall be added to paragraph 2: “during the installation or removal of cables”.

Clause 23 (Termination)

89. PTC shall define exhaustively the situations of non-compliance that justify the immediate termination of contract.
90. Point b) of paragraph 4 shall be amended, to exclude the reference to the opening of provisional bankruptcy proceedings against the beneficiary entity.

91. Point c) of paragraph 4 shall be reworded so that the termination of contract be preceded by a hearing of the beneficiary entity.

Clause 24 (Resolutive condition)

92. There are no grounds for making the contract subject to a resolutive condition. The effects resulting from a final judgement in the course of opened proceedings may vary and shall be binding regardless of this clause. The latter is thus unnecessary and must be removed.

Clause 26 (Transfer of contractual position)

93. The provision concerning the authorization to be granted by the beneficiary entity to PTC as regards the transfer of the contractual position is an absolutely forbidden clause pursuant to point I) of article 18 of the general contractual clauses regime, and must thus be removed.

Clause 29 (Intellectual property)

94. This clause must be amended so as to grant conditions of reciprocity to the beneficiary entity.

Clause 34 (Resolution of disputes)

95. This clause must be amended so as to grant conditions of reciprocity to the beneficiary entity.

XVII. Effects of alterations to the RCAO

96. Any alteration to the RCAO shall have immediate effects on the relationships with beneficiary entities, unless specifically provided otherwise by ICP-ANACOM.

2º PTC shall accommodate the following aspects, in the procedures for the creation, maintenance and update of a descriptive database of conduits and associated infrastructure:

XVIII. Time-tabling of the database operation process and of the record catalogue

97. The adjustment of current information systems for the provision of record information and the ground surveys for the collection of record information shall be performed in parallel and not sequentially.
98. The ground survey work for the collection of record information shall start in the main urban centres.

99. On the date the Extranet is made available, PTC shall make available the results of the ground survey for the collection of record information which have been completed by that date, as well as all available record information.
100. PTC shall call upon all necessary work teams to ensure that the ground survey for the collection of record information be completed within eighteen months at the most from the date of approval hereof.

XIX. Description of space in conduits and associated infrastructure deemed necessary for the development of infrastructures, which is expected to be used during the period the RCAO remains in force

101. Where PTC wishes to reserve space for the future development of concessionary services, the company shall inform ICP-ANACOM of this fact, for monitoring purposes, submitting thereto the description of the concrete space in conduits (area figures in cm², relatively to the total available area) deemed necessary for such development and expected to be used during the period the RCAO remains in force.