

Determination of 14.12.2006

CHANGES TO THE RIO ON CAPACITY-BASED INTERCONNECTION OFFER

Preamble

Considering the evolution of the electronic communications market and the emergence of competitive and innovative products and services in the retail market that could not be fully replicated by the PT Group's competitors within the framework of the current time-based interconnection model, it became necessary to introduce an interconnection model that is not time-based, enabling the PT Group's competitors to replicate in a competitive way certain offers and campaigns launched by the PT Group. Thus, ICP-ANACOM's decision of 17/12/04, regarding the setting of obligations in the call origination and termination wholesale markets¹, imposed on the PT Group the obligation to provide a capacity-based interconnection model, as an alternative to the time-based interconnection model.

This interconnection model is based on the offer to the OSP, by a company of the PT Group, in this case PT Comunicações, SA (PTC), of a certain interconnection capacity at a given interconnection point and at a fixed price. Its introduction should give operators the ability to more efficiently manage interconnection resources, adjusting them in accordance with their needs and traffic profiles, thus enabling them all to provide innovative products and services and to foster the use of the fixed network, ultimately benefiting users and also contributing towards creating competition conditions.

In this sense, by determination of 24/06/05², the launch of a public consultation on the offer of capacity-based interconnection (or interconnection flat rate) was approved, having been also approved, by determination of 12/10/05³, the corresponding report and the draft decision with the specification for changes to PTC's Reference Interconnection Offer (RIO), in order to include capacity-based interconnection.

¹ <http://www.anacom.pt/template12.jsp?categoryId=152277>

² <http://www.anacom.pt/template20.jsp?categoryId=146187&contentId=281012>

³ <http://www.anacom.pt/template12.jsp?categoryId=167685>

By determination of 08/06/06⁴, approval was granted to the specification for changes to RIO in order to include capacity-based interconnection, comprising the prior hearing report. Under this determination, the concessionaire must submit to ICP-ANACOM, within thirty days from the date of the final determination of ICP-ANACOM, a new version of RIO that includes the offer of capacity-based interconnection, for the verification of its compliance with the established minimum elements.

Accordingly, PTC sent to ICP-ANACOM, by letter of 25/07/06, a new RIO version, comprising the offer of capacity-based interconnection. This version included a proposal of interconnection agreement standard form, which will be assessed and considered within a separate decision. By no means should the approval of such standard form affect the enjoyment of conditions established in the RIO.

In this context, by determination of 23/10/06⁵, ANACOM approved the draft decision (DD) on changes to be introduced by PTC to the reference interconnection offer (RIO) as regards the capacity-based interconnection offer (interconnection flat rate). Thus, taking into account the reasoning presented in the report of the prior hearing, annexed hereto, which is now approved and which is an integral part hereof:

the Board of Directors of ICP-ANACOM, in the scope of the powers provided for in paragraphs b) and f) of paragraph 1 of article 6 of the Statutes, approved by Decree-Law no. 309/2001 of 7 December, considering the regulatory objectives provided for in article 5 of Law no. 5/2004 of 10 February, namely the promotion of competition in the provision of electronic communications services and the protection of citizens' interests, and pursuant to paragraph 3, point a) of article 68 of Law no. 5/2004, determines not to oppose the proposal submitted by PTC on 25 July 2006, to integrate the capacity-based interconnection modality in the reference interconnection offer, except for the following elements, which must be amended by that entity within fifteen working days:

1. Time limit to validate applications

In point 6 (Procedure to engage capacity and migration from a time-based interconnection model to the capacity-based interconnection model), point a) of annex 9 of the RIO, the time limit to validate applications must be accounted for in calendar days, as referred to in point 11 of determination of 08/06/06.

2. Differentiated deadlines for migration from the time-based interconnection model to the capacity-based interconnection model according to the stage of development of the offer

The time limits set out in determination of 08/06/06, for migration from a time-based interconnection model to the capacity-based interconnection model, are deemed appropriate given the likely development of the offer, thus the differentiated deadlines for an initial stage of offer implementation and a subsequent stage, provided for in point 6 (Procedure to engage capacity and migration from a time-based interconnection model to the capacity-based interconnection model) of annex 9 of the RIO, must be removed.

3. Resale of capacity-based interconnection

4 <http://www.anacom.pt/template31.jsp?categoryId=196062>

5 <http://www.anacom.pt/template31.jsp?categoryId=213603>

In point 4 of annex 9 of RIO, for “*The OSP holding capacity units may deliver*” read “*The OSP holding capacity units must deliver*” and for “*and PT Comunicações may route traffic intended to a third OSP (...)*” read “*and PT Comunicações shall deliver, where requested, traffic intended for a third OSP (...)*”.

Taking into account that the capacity-based interconnection shall enter into force sixty days after the RIO version has been published, and considering the interest in the possibility of resale of multiple units of 64 Kbps, it is necessary to define the beginning of the stage of resale provision in multiple units of 64 Kbps, which shall enter into force six months after the date of approval hereof.

4. Inclusion in the RIO of an interconnection agreement standard form

Having regard to the fact that, according to section 5.1 of the RIO, the provision of interconnection requires interconnection agreements with all involved OSP, ICP-ANACOM deems that the services provided in the scope of the RIO should not be made subject to the conclusion of an interconnection agreement which is not compatible with the provisions of the RIO, this being the actual purpose of the reference proposal. Thus, the provision in section 25 of the RIO including capacity-based interconnection, according to which “*the provision of services comprised by the offer is subject to the conclusion of an interconnection agreement (...)*” should be removed. This does not preclude the interconnection agreement standard form from being included in the RIO, in so far as the provisions of the reference offer, which must conform to the determinations issued by ICP-ANACOM, are complied with.