

ARRANGEMENT OF REGULATIONS

1. Citation
2. Interpretation
3. Obligation to give information
4. Signing of applications
5. Procedure for dealing with amended information
6. Limits to disclosure
7. Prohibition
8. Resale of excess capacity on private telecommunications network
9. Bypass prohibition
10. Messages to cease
11. Safeguard for confidentiality
12. Restriction on unfair practices
13. Notice of revocation
14. Revocation of licence
15. Reporting obligations

SCHEDULE

2016 *Telecommunications (Private Network Licensing) Regulations* SRO. 6

GRENADA

STATUTORY RULES AND ORDERS NO. 6 OF 2016

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM BY SECTION 73 OF THE TELECOMMUNICATIONS ACT CHAPTER 315C, MAKES THE FOLLOWING REGULATIONS—

(Gazetted 15th January, 2016).

1. Citation. These Regulations may be cited as the

TELECOMMUNICATIONS (PRIVATE NETWORK LICENSING)
REGULATIONS, 2016.

2. Interpretation. In these Regulations—

“affiliate” means a relationship between two entities, in which one of them directly or indirectly owns more than 50% of the capital stock of, or controls the other entity;

“bypass” means conduct comprising—

(a) the passing of an international voice service, including a reconstructable voice service as part of a data or mixed voice or data service, without passing through the international gateway switch of a licensed international voice network operator; or

(b) the termination of international voice services over the domestic public switched telecommunications network by a person who does not originate the call or possess a valid interconnection agreement with that domestic network operator with respect to international voice services;

“capital stock” includes all forms of equity ownership and partnership interests;

“control” means control in whatever form exercised and is not limited to majority stock ownership, and includes direct or indirect control through intervening subsidiaries;

SRO. 6 *Telecommunications (Private Network Licensing) Regulations* 2016

“licensee group” means the licensee, its parent or subsidiaries, and any affiliate comprising the users of the private telecommunications network;

“private leased circuit” means a telecommunications facility which—

(a) is provided by means of one or more public telecommunications networks for the conveyance of messages between points, all of which are points of connection between those telecommunications systems and other telecommunications systems; and

(b) is made available to persons whereby messages transmitted at any of the points of connection—

- (i) are received at every such point;
- (ii) are fixed by the manner in which the communications facility is installed; and
- (iii) cannot otherwise be selected by a person or a telecommunications apparatus sending messages by means of the facility.

3. Obligation to give information. In any application for a licence to establish or operate a private telecommunications network, the applicant must include the information specified in the Schedule.

4. Signing of applications.—(1) The applicant must submit a statement to the Commission in writing specifying the date on which it desires to put the private telecommunications network into operation, which must be at least thirty (30) days after the date of the application.

(2) The information referred to in subregulation (1) must be signed by—

- (a) an officer, if the applicant is a member of an unincorporated association;
- (b) an officer or duly authorised employee, if the applicant is a company or other business entity;

2016 *Telecommunications (Private Network Licensing) Regulations* SRO. 6

(c) one of the partners, if the applicant is a partnership; and

(d) the applicant personally, if an individual.

5. Procedure for dealing with amended information. A licensee must forward updated information to the Commission within thirty (30) days from effecting any major change in information originally submitted by submitting a statement with the additional information and a declaration on the anniversary date of the submission of the original statement, specifying the truth and accuracy of the information.

6. Limits to disclosure of information.—(1) The Commission must maintain a list of persons or entities licensed to establish and operate a private telecommunications network under these Regulations, and must make that list and any information referred to in regulations 4 and 5 available for public inspection at its principal office.

(2) Notwithstanding subregulation (1), confidential information must not be disclosed to members of the public.

7. Prohibition.—(1) A private telecommunications network must only be established or operated by means of—

(a) telecommunications facilities provided by a person licensed to operate a public switched telecommunications network; or

(b) telecommunications facilities in respect of which a licensee is licensed to operate.

(2) A private telecommunications network operator who uses facilities under subregulation (1) must not be inter-connected to the public switched telecommunications network or have switched telecommunications services.

(3) A licence to establish and operate a private telecommunications network must not, as a condition of that licence, restrict the services provided to the licensee by itself to voice traffic or data traffic, or similar limited use.

8. Resale of excess capacity on Private Telecommunications Network.—(1) A licensee of a private telecommunications network may—

(a) cede or assign the rights to use excess capacity on the private telecommunications network facilities;

SRO. 6 *Telecommunications (Private Network Licensing)* 2016
Regulations

- (b) resell excess capacity on the private telecommunications network facilities;
- (c) sublet or surrender control of the private telecommunications network facilities on a long-term basis.

(2) If a licensee resells its excess capacity on or sublets or surrenders control of, its private telecommunications network facilities (“resale”), that resale must—

- (a) be incidental to the purposes of the private telecommunications network;
- (b) be offered only to licensed operators; and
- (c) not prevent the rightful and proper use of the private telecommunications network by any member of the licensee group.

9. Bypass prohibition. No person may engage in bypass.

10. Messages to cease. If a private telecommunications network is used for the purpose of advertising the sale of goods, services or any other thing by sending messages to the number of an end-user, a licensee who receives a request from that end-user to cease sending such messages must cease forthwith.

11. Safeguard for confidentiality. A licensee must take all reasonable steps to—

- (a) ensure the accuracy and reliability of any metering system used in connection with a private telecommunications network;
- (b) keep records of all metering, which must be made available to the Commission upon request;
- (c) safeguard information acquired by the licensee in relation to the conveyances of communications; and
- (d) safeguard the privacy and confidentiality of any communications conveyed relating to the private telecommunications network.

2016 *Telecommunications (Private Network Licensing) Regulations* SRO. 6

12. Restriction on unfair practices.—(1) A licensee must not, whether by act or omission, do anything which results in or is intended to have, or is likely to have the effect of distorting, preventing or restricting competition in the course of, or as a result of, or in connection with the establishment or operation of a private telecommunications network licensed under these Regulations.

(2) No public telecommunications operator may disconnect or suspend service to any operator of a private telecommunications network for any reason other than—

- (a) as required by law or pursuant to an order issued by the Commission;
- (b) in accordance with the terms of a contract for the provision of that service; or
- (c) if the operator believes on reasonable grounds that the private operator is engaging in bypass.

13. Notice of violation.—(1) If there are reasonable grounds to suspect that a licensee holding a private telecommunications network licence violates any provision of the Act or Regulations, the licensee must be served with a written notice by the Commission requesting an explanation of the alleged violation.

(2) The licensee must submit a written answer in duplicate to the Commission within seven (7) days from receipt of the notice, or during any other period specified in the notice.

(3) If an answer cannot be furnished within the specified period due to unavoidable circumstances, the licensee must acknowledge the notice and request an extension of time, setting forth in the letter of acknowledgement a satisfactory explanation for the delay and the reasons for the extension.

14. Notification of revocation. Before revoking a licence, the Commission must give the licensee written notice of its intention to do so, and allow the licensee a period of not less than twenty-eight (28) days from the date of the notice in which to make representations in relation to the proposed revocation.

15. Revocation of licence. The Minister may, on the advice of the Commission, revoke a licence held by a licensee which relates to all or any part of a private

*SRO. 6 Telecommunications (Private Network Licensing) 2016
Regulations*

telecommunications network established or operated by that licensee in the following circumstances—

- (a) the licensee has repeatedly or willfully engaged in bypass;
- (b) the Commission has given the licensee not less than thirty (30) days' notice in writing that failure by the licensee to comply with a directive within that period would result in the revocation of the licence in respect of that licensee or of all or any part of the PTN operated by that licensee;
- (c) the licensee fails to secure the required frequency authorisation in respect of radio communications equipment which is part of the private telecommunications network;
- (d) the licensee has failed to comply with a final order of the Commission;
- (e) the licensee is convicted of an offence under the Act; or
- (f) the Minister determines that revocation of the licence is required in the interests of national security.

16. Reporting obligations. A licensee must keep, maintain and provide to the Commission annual traffic reports relating to the utilisation and disposal of any excess capacity on a private telecommunications network that has been sold pursuant to regulation 8.

SCHEDULE

(regulation 3)

**INFORMATION REQUIRED FOR SUBMISSION BEFORE ESTABLISHING A
PRIVATE TELECOMMUNICATIONS NETWORK**

1. The licensee must submit the following information—
 - (a) a description of the nature and purpose of the service to be provided by the proposed private telecommunications network, including—
 - (i) a description of terminal equipment comprising the private telecommunications network including the equipment to be used and to be provided by the licensee;

2016 *Telecommunications (Private Network Licensing) Regulations* SRO. 6

- (ii) a detailed description of technical aspects of proposed private telecommunications network including but not limited to a descriptive configuration of the proposed private telecommunications network;
 - (iii) a statement certifying that the equipment complies with type approval requirements in Grenada including a statement of compliance from a recognised approval agency;
 - (iv) full details of the premises where the elements of the proposed private telecommunications network will be located;
 - (v) the area of operation of the proposed private telecommunications network; and
 - (vi) the public telecommunication system or private leased circuit to which the private telecommunications network is to be connected.
- (b) a description of the members of the licensee group;
 - (c) a list of any other countries that are signatories to the Eastern Caribbean Telecommunications Authority Agreement, if the applicant intends to apply for or has applied for, or has been granted an individual licence, a class licence, a frequency authorisation or a cable landing licence;
 - (d) any information deemed relevant by the applicant;
 - (e) a statement that the applicant intends to establish and operate a private telecommunications network;
 - (f) a statement whether any individual or class licence to provide facilities or services in Grenada or a frequency authorisation to utilise frequencies in Grenada has previously been granted to the applicant under the Act, and if so a general description of the categories of facilities, services or frequency so authorised;
 - (g) the e-mail address, name, post office address, telephone number and title of the applicant's registered office;
 - (h) the e-mail address, name, post office address, telephone number and the title of the officer and any other contact person to whom correspondence concerning the licence is to be addressed;

SRO. 6 *Telecommunications (Private Network Licensing) 2016*
Regulations

- (i) the following details, where the private telecommunications network is to be connected to any private leased circuit provided by a satellite system using a very small aperture terminal (also known as VSAT)–
 - (i) the antenna, facility site, identification numbers, antenna identification number, manufacturer and model number of the antenna, number of antenna to be used by the private telecommunications network, antenna size in meters, antenna gain both transmit and/or gain receive expressed in dBi at– GHz with respect to the VSAT earth station antenna to be used by the private telecommunications network;
 - (ii) the destination points in Grenada and any foreign country for the private telecommunications network communications using the satellite;
 - (iii) the frequency coordination limits of the VSAT;
 - (iv) the maximum antenna height and maximum power limit for each antenna;
 - (v) the particulars of operation for each RF. carrier for each antenna;
 - (vi) the satellite name and orbit location; and
 - (vii) a statement that the applicant will cooperate with any other licensee whose VSAT operation is potentially or adversely affected by the applicant’s operation, in order to reach an agreement in good faith, for modification of power density levels in either or both systems, and to facilitate operations without harmful interference.
- (j) the particulars of the international simple resale bearer circuit and other telecommunications systems, where the private telecommunications network is to be connected to that international simple resale bearer circuit;
- (k) the state or territory where the corporation, partnership or other business enterprise is incorporated;
- (l) whether the applicant is a corporation, partnership or other business enterprise.

2016 *Telecommunications (Private Network Licensing) Regulations* SRO. 6

2. For the purpose of paragraph 1 (i) (iii), the frequency coordination limits of the VSAT include—
 - (a) antenna elevation angles;
 - (b) earth station azimuth angles;
 - (c) frequency limits in MHz;
 - (d) satellite arc ranges; and
 - (e) the maximum EIRP density toward the horizon (dBW/4kHz).
3. For the purpose of paragraph 1 (i) (iv), the maximum antenna height and the maximum power limit for each antenna include the—
 - (a) building height above ground level in metres;
 - (b) maximum antenna height above roof-top in metres;
 - (c) maximum antenna height in metres above ground level and above mean sea level;
 - (d) total EIRP for all carriers, expressed in dBW; and
 - (e) total input power at antenna flange, expressed in watts.
4. For the purposes of paragraph 1 (i) (v), the particulars of operation for each RF carrier for each antenna include—
 - (a) a description of the modulation techniques and services provided;
 - (b) antenna polarization (H,V,L,R);
 - (c) emission designator;
 - (d) the frequency bands used (MHz);
 - (e) maximum EIRP density per-carrier (dBW/4kHz);

A 112

*SRO. 6 Telecommunications (Private Network Licensing) 2016
Regulations*

- (f) maximum EIRP per-carrier (dBW); and
- (g) transmit/receive mode.

Made by the Minister this 29th day of December, 2015.

GREGORY BOWEN
Minister responsible for Telecommunications.

GRENADA

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A 113

2016 *Telecommunications (Private Network Licensing)* *SRO. 6*
Regulations
