

Determination of 15.3.2007

DECISION ON ALTERATIONS TO BE INTRODUCED IN THE REFERENCE CONDUIT ACCESS OFFER

I – Framework

By determination of 23/10/06¹, approval was given to a set of clarifications and alterations that were to be implemented with respect to the Reference Conduit Access Offer (RCAO) of PT Comunicações (PTC). As a result it was determined that PTC made the according modifications and published the RCAO, within a period of 10 working days. In particular, this Determination established that the monthly charge for space occupation by connection point and the monthly charge for space occupation by excess cable should be removed from the RCAO given that no grounds were presented by PTC with respect to the inclusion of such categories in the RCAO.

PTC subsequently informed ICP-ANACOM, on 16/11/06, that it had published RCAO version 2.2² on 15/11/06. This version namely provided for a monthly charge for space occupation per connection point and a monthly charge for space occupation by excess cable. PTC submitted ICP-ANACOM a proposal on these prices, and the respective grounds, which the company deemed ICP-ANACOM should be aware of.

II – Assessment

A connection point means the connection between segments of cables owned by the beneficiary entity within a visit chamber, which is a box that integrates the electronic communications network, for access to cables installed along conduits. Excess cable means surplus cable (wound cable with around 20m) which may be stored in a visit chamber, for future maintenance operations or minor network changes. The existence of connection points

¹ See <http://www.anacom.pt/template31.jsp?categoryId=220387>

² See <http://ptwholesale.telecom.pt/GSW/PT/Canais/ProdutosServicos/OfertasReferencia/ORAC/ORAC.htm>

and/or excess cable in a visit chamber thus leads to a decrease of the maximum occupation of that visit chamber.

PTC calculated monthly charges for space occupation by connection point and excess cable based on a set of parameters and the following formulas:

$$MCVCGP = \frac{\left\{ \left\{ ACVCGP \times \left[\frac{1}{APCVC} + (IA \times CAC) + CAOM \right] \right\} \times (1 + CBCACC) \right\} \times (1 + CCAC)}{12}$$

[Start Confidential Information]³

[End Confidential Information]⁴

$$MCSOCP = \frac{MCVCGP}{ANCPVCGP} = \frac{[SCI] \quad [ECI]}{4,6} = [SCI] \quad [ECI]$$

$$MCSOEC = \frac{MCVCGP}{ANECVCGP} = \frac{[SCI] \quad [ECI]}{6,6} = [SCI] \quad [ECI]$$

Parameter	Amount
	[SCI]
MCSOCP – monthly charge for space occupation per connection point	
MCSOEC – monthly charge for space occupation by excess cable	
ACVCGP – average cost of a visit chamber for general purposes	
MCVCGP – monthly cost of a visit chamber for general purposes	
APCVC – amortisation period for conduits and visit chambers	
IA – investment yet to be amortised	
CAC – cost of annual capital	
CAOM – cost of annual operation and maintenance	
CBCACC – commercial and billing costs and annual collection costs	
CCAC – Common costs with annual curtailment	
	[ECI]
ANCPVCGP – average number of connection points in a visit chamber for general purposes	4,6
ANECVCGP – average number of excess cable in a visit chamber for general purposes	6,6

Source: PTC fax dated 16/11/06, with reference ANACOM-E64289/2006

³ Hereinafter identified as [SCI].

⁴ Hereinafter identified as [ECI].

PTC used the same parameters and formulas used by ICP-ANACOM to calculate the monthly charge for space occupation by point of entry, and thus such criteria is consistent with

parameters and formulas used to define prices established in Determination dated 26/05/06⁵, which approved alterations to be introduced in the RCAO, and with formulas used to define prices established in Determination of 02/09/05⁶, which approved a draft decision on alterations to the RCAO.

Without prejudice, it should be stressed that PTC submitted in the meanwhile to ICP-ANACOM updated figures on annual results of PTC's cost accounting system for cost of capital ([SCI]⁷ [ECI], according to data reported by PTC on 04/07/06 and [SCI]⁸ [ECI] according to data submitted by PTC on 31/08/06) and for curtailment costs ([SCI] [ECI], according to data reported by PTC on 04/07/06 and [SCI] [ECI] according to data submitted by PTC on 31/08/06).

As stated in the Report on the prior hearing of Determination of 26/05/06, common costs of new products/services, concerning which there is no regulatory cost data, shall be estimated by considering the ratio of common costs relatively to direct and joint costs, which must be consistent with the 10% reference level acknowledged at international level as an acceptable level of common costs.

Thus, the monthly charges for space occupation proposed by PTC seem reasonable: (i) €3,90 (no VAT included) per connection point; and (ii) €2,70 (no VAT included) per excess cable segment.

Moreover, the monthly charges for space occupation by connection point, comprised in the RCAO and defined by ICP-ANACOM in the scope of determination of 26/05/06, was calculated based on the maximum visit chamber occupation (10 pipes), proposed by PTC and accepted by ICP-ANACOM. Thus, no account has been taken of additional connection points and excess cable which are likely to decrease the maximum visit chamber capacity (to respectively 4,6 and 6,6 pipes, in average, according to PTC).

Thus, the RCAO must make explicit that, in case a beneficiary entity requests a connection point or excess cable from PTC, the monthly charge for space occupation by connection point or monthly charge for space occupation by excess cable shall apply, respectively, instead of the monthly charge for space occupation by point of entry.

⁵ See <http://www.anacom.pt/template31.jsp?categoryId=195682>

⁶ See <http://www.anacom.pt/template31.jsp?categoryId=215782>

⁷ Reference ANACOM E34071/2006.

⁸ Reference ANACOM E46194/2006.

III – Determination

Taking into account grounds presented in the prior hearing report, which is attached hereto, approved hereby and deemed an integral part hereof, the Board of Directors of ICP-ANACOM, having heard interested parties, pursuant to points a) of paragraph 1 and to point c) of

paragraph 2 of article 5 of Law no. 5/2004, of 10 February, and under paragraph 4 of article 26 of that Law and to point b) of article 26 of the Statutes approved by Decree-Law no. 309/2001, of 7 December, hereby determines:

PT Comunicações, S.A. (PTC) shall amend and publish, within a period of ten working days, the Reference Conduit Access Offer (RCAO), enacting the following amendments:

1. The monthly charge for space occupation by connection point (no VAT included) and the monthly charge for space occupation by excess cable (no VAT included) shall not exceed €3,90 and €2,70, respectively [Table 7 of RCAO].
2. Moreover, the RCAO must make explicit that, in case a beneficiary entity requests a connection point and/or excess cable from PTC, the monthly charge for space occupation by point of entry in a VC shall not apply, applying in alternative: (i) for each connection point requested, the monthly charge for space occupation by connection point; and (ii) for each excess cable segment requested, the monthly charge for space occupation by excess cable [Table 7 of RCAO].
3. The definition of excess cable, comprised in the RCAO, shall provide that it means surplus cable with around 20m, which may be stored in some VC, for future maintenance operations or minor network changes [Table 1 of RCAO].