



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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**Complaint under clause (f) of section 4 of the Pakistan Telecommunication
(Re-organization) Act, 1996 of M/s. Rahat Communication (PVT.) Ltd against
PTCL**

File No. 15-26/CPPS-3/Fin/PTA

Date of the complaint:	12-12-2006
Date of reply to the complaint:	25-01-2007
Venue of Hearing:	PTA HQs, Islamabad
Date of Hearings:	17-04-2007,19-04-2007 and 24-04-2007

The Panel of Hearing Present:

Director General (Regulatory Studies)
Director General (Finance)

The Issue:

“Non restoration of lines by PTCL contrary to the provisions of MoU dated 13th July, 2004 and caused huge business loss to M/s. Rahat Communication (Pvt) Ltd”

DECISION OF THE OFFICERS OF THE AUTHORITY

BRIEF FACTS:

M/s. Rahat Communication (Pvt.) limited (the “complainant”) is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Card Payphone services pursuant to the non-exclusive license No. DIR(C)/L/PTA/311/2000 dated 30th September, 2000 issued by the Pakistan Telecommunication Authority (the “Authority”) to

establish, maintain and operate Card Payphone services in Pakistan on the terms & conditions contained in the license.

2. The complainant filed a complaint dated 12-12-2006 against PTCL. In the complaint it is stated that:

(a). It had closed its operations in February, 2003 due to certain financial crises. Thereafter, it entered into an MoU with PTCL whereby PTCL was agreed to restore lines on receipt of first installment of Rs. 310,000/- In compliance with the conditions of the MOU the licensee deposited four installment amounting to Rs. 1,240,000/ to PTCL but PTCL did not restore its connections.

(b). Its security against payphone lines, which was refundable after closure of lines, is still lying with PTCL.

(c). The employees of PTCL have stolen all the devices installed in different exchanges in Rawalpindi/Islamabad by the licensee and were under the control of PTCL Control Room and MDF. The value of such devices is Rs. 5 lacs.

(d). PTCL also sent bogus bills of Rs.161,000/- and Rs.194,000/- on 15-02-2003 and 01-03-2003, respectively, against telephone No.5517805, whereas the company was closed on 18-02-2003. The complainant contacted the Divisional Engineer Cantt who checked the points and found that the said telephone number was closed after closure of the company, but again another bogus bill Rs.528,000/- was sent to the complainant.

(e). The complainant paid the demand notices but no connection were given, this amount is required to be refunded.

and requested the Authority to direct PTCL to reactivate payphone lines alongwith devices installed in different exchanges of Rawalpindi/Islamabad and withdraw bogus bills.

3. PTCL submitted its reply to the complaint vide letter dated 25-01-2007. In the reply PTCL stated that interconnect agreement with the complainant was signed on 20-03-2001 and further informed that.

(a). Telecom facilities of the complainant were disconnected pursuant to PTA letter dated 21-08-2002 which were restored vide PTA letter dated

4-09-2002. PTCL issued instruction for recovery of outstanding dues before restoration of the complainant's payphone connections.

(b). On 13-07-2004 an MoU was signed between PTCL and the complainant. In the light of MoU PTCL issued instructions to its field regions vide letter dated 4-08-2004 for restoration of payphone lines after credit of first cheque in PTCL account.

(c). The complainant again requested vide letter dated 23-10-2004 for relaxation in payment of installment due to the fact that lines were not restored despite payment of three installments. The request was considered and relaxation was granted vide letter dated 15-12-2005.

(d). The complainant requested vide letter dated 5-07-2005 for suspension of remaining installments for further six months with the reason that the payphone lines could not be restored due to technical reasons.

(e). The complainant vide letter dated 9-10-2006 informed that only 16 out of 110 connections have been restored and requested to adjust the security amount of remaining 96 connections against the outstanding dues.

(f). The remaining 96 telephone lines can be restored if the licensee provides location where these telephones are required to be installed.

(g). Regarding the bogus bills the licensee may be asked to provide the details of the bills to this office for further investigation.

4. The case was first fixed for hearing on 17-04-2007. Mr. Wilayat Ali ACE (BSP-III) appeared on behalf of PTCL whereas Mr. Nazir Khan appeared on behalf of the complainant, M/s. Rahat communication. As Mr. Wilayat Ali was not well aware with the facts of the case and was not able to answer the queries, therefore, the panel issued instructions vide letter dated 17-04-2007 that GM (BPS) alongwith concerned officers should attend the hearing on 19-04-2007. Pursuant to the aforesaid instructions Syed Muhammad Ilyas, GM (BPS) alongwith Mr. Faysal Saud Quereshi, Assistant Manager (Legal), Mr. Hamoon Rashid Chuhan, Assistant Legal Advisor, Mr. Ali Dad, and Mr. Wilayat Ali appeared before the panel on the said date on behalf of PTCL and Mr. Nazir on behalf of the complainant. Representatives of PTCL again requested for adjournment on the ground that concerned DE could not be contacted and without his presence they would be unable to reply the queries. Therefore, again hearing was fixed on 24-04-2007 with the consent of the parties. Mr. Muhammad

Yahya SE, Faisal Saud Qureshi A.M (Legal), Muhammad Iqbal DCR (BSP) appeared on behalf of PTCL and Mr. Nazir and Malik Muhammad Akram appeared on behalf of the complainant. However, despite repeated instructions verbally and in writing, PTCL failed to bring concerned DE, Mr. Wajih Anwar and DE Mr. H. Shafiq before the hearing panel, which shows its irresponsible attitude towards the officer of the Authority. However, proceedings were continued on the request of PTCL and on the stance of PTCL that they are well conversant, and competent enough to handle and plead the case.

5. Mr. Nazir reiterated the same facts as mentioned Para 2 above before the panel and informed that he has made repeated requests to PTCL for restoration of its lines/numbers and waiver of illegal excessive bill of Rs.528,000 against telephone number 55178051, but all in vain. The complainant further alleged that it is out of operation since February, 2003 owing to the conduct of PTCL and since then he has not earned any income and has suffered a huge business and financial loss, and requested the Authority to direct PTCL to reactivate payphone lines in accordance with the provisions of MOU and withdraw bogus bills.

6. PTCL replied that as per policy, if a company fails to get its connections/lines restored within a period of two months, then these pairs/lines have been given to other operators and these pairs are not retained for indefinite period. In the instant case on payment of first installment by the complainant pursuant to MOU, its all lines could not be restored due to technical reasons and shifting of clients, etc. However, 16 numbers have been restored and these are operational. The complainant's lines were disconnected in February, 2003 and to restore the same lines after lapse of about two years is practically difficult for PTCL owing to various reasons including shifting of clients to other licensees and non-availability of the lines. Secondly, Mr. Nazir has never attended any meeting for restoration of lines. However, if the complainant provides alternate premises then these lines/numbers can be restored.

7. The panel then asked PTCL that why the one number 5517805 remained operational while the other numbers were disconnected. PTCL failed to provide any comprehensive/satisfactory reply to this query and just stated that as the complainant owned the number, therefore, it could have itself managed to disconnect it from NMS, if was not disconnected by PTCL to avoid over billing. The complainant stated that he had no information about the location of the PCO, as this number was not installed at the premises at which it was applied for. He further stated that this fact was brought in the knowledge of PTCL but PTCL failed to remedy the same till date. The panel instructed the complainant to provide such letter if written to PTCL. On 10-05-2007, the complainant has provided a copy of the letter dated 03-03-2003 which was received in PTCL

Rawalpindi office on 04-03-2003 in support of his stance. This letter has also been handed over to PTCL by the complainant.

8. The complainant further alleged that all LPUs alongwith fixtures worth Rs.500,000/- installed in the premises of PTCL, have been stolen/sold, by the employees of PTCL. He stated that MDF is in the control room and no one can enter in the control room without PTCL permission and on having knowledge that installed LPUs alongwith fixtures were not available, he contacted the concerned DE of control room namely Mr. Shafiq who admitted that it is PTCL's mistake. PTCL admitted that LPUs are installed in the control room and no one can enter into the control room, however, the complainant has also the key of that MDF. Moreover, PTCL agreed that if the complainant would provide the list of the stolen LPUs then PTCL would accommodate. Therefore, the complainant was advised to provide detail of missing LPUs to PTA and PTCL for scrutiny of the claim. Pursuant to this direction of the panel the complainant furnished details of missing LPUs on 10-05-2007 to PTA and PTCL.

9. Decision

9.1. Keeping in view the above mentioned facts and circumstances mentioned during the hearing and perusal of the documents, the Panel hereby decides the complaint in the following terms:

- (a). It is established that PTCL failed to implement its MoU signed by PTCL with the complainant and contravenes the terms of the MoU dated 13-07-2004, whereas, the complainant has performed its part of the agreement. Moreover, PTCL, despite its clear directives to its Zonal offices vide letters dated 04-08-2004 and dated 04-04-2005, failed to restore the lines as per the aforesaid MoU. As PTCL has already agreed to restore the lines, therefore, PTCL is hereby directed to restore all remaining lines of the complainant, M/s. Rahat Communication (Pvt) Ltd, alongwith support LPUs in the exchanges on the premises identified by the complainant within thirty (30) days of this order, and submit compliance report accordingly.
- (b) By perusing the contents of the letter dated 03-03-2003 provided by the complainant to the panel on 10-05-2007, failure on the part of PTCL to verify that whether the line/number (5517805) was working directly or through LPU and NMS arrangement, and in the presence of the undefended argument of the complainant that LPUs have been removed, there are sufficient reasons to believe that the excessive billing complaint is genuine and needs to be thoroughly looked into, therefore, PTCL is directed to conduct an investigation of the excessive billing complaint of

this number alongwith payment of demand notes and settle the dispute within thirty days of this order and submit report to the Authority

- (c). However, the complainant's claim regarding payment of damages due to default in implementation of MoU by PTCL is not entertained as, in our view we have no jurisdiction in awarding the same.
- 10. This is issued with the approval of the Authority.

Director General (Finance)

Director General (Regulatory Studies)

- 11. Signed on 29th May, 2007 and comprises 06 pages.