Comments of AT&T on the Consultation Paper [No. 07/2018 dated October 18, 2018] on Estimation of Access Facilitation Charges and Co-location Charges at Cable Landing Stations

Introduction and Summary

AT&T Global Network Services India Private Limited ("AT&T") respectfully submits these comments on the TRAI Consultation Paper on Estimation of Access Facilitation Charges and Co-location Charges at Cable Landing Stations, issued on October 18, 2012 (the "Consultation Paper").

Access to submarine Cable Landing Stations (CLS) is an essential network element for almost every telecom network services requiring international connectivity, and access barriers to these facilities can constrain the competitiveness of telecom operators and harm the growth of the international telecom market and ultimately of the business and other users of such services.

AT&T, in its earlier comments filed on the subject in 2011 and 2012, has noted that CLS access charges continue to be unreasonably high and result in artificially inflated prices for international services in India. AT&T urged the TRAI to address these important concerns by requiring access facilitation charges (AFC), operations and maintenance charges (O&M) and co-location charges (CLC) to be established by the Authority on the basis of cost. Other parties in the proceeding, including owners of cable landing stations as well as service providers and other interested parties, made similar recommendations.

AT&T welcomes the Authority's decision and its regulations issued in December 2012 to change the then-existing procedures for the establishment of access facilitation charges (AFC) and to provide for the determination of these charges by the Authority. AT&T strongly supports the Authority's efforts to establish more reasonable and cost-based access charges for these key facilities, and is pleased to offer its comments on the two issues stated for consultation in support of what has been recommended in the regulation *The International Telecommunication Cable Landing Stations Access Facilitation Charges and Co-location Charges Regulations, 2012 (No.27 of 2012)' dated 21.12.2012.*

In view of the order dated October 8,2018 of the Hon'ble Supreme Court of India requesting TRAI , to re-work the figures on both counts within six weeks from the date of such order, AT&T is pleased to assist the TRAI in completing this consultation proceeding and re-working the figures on both counts in accordance with its regulations *The International Telecommunication Cable Landing Stations Access Facilitation Charges and Co-location Charges Regulations, 2012 (No.27 of 2012)' dated 21.12.2012.*dated December 21, 2012. The Authority should require these new rates, if any, to be applied to all access arrangements at India's cable stations from the effective date of its regulations *The International Telecommunication Cable Landing Stations Access Facilitation Charges and Co-location Charges Regulations, 2012 (No.27 of 2012)' dated December 21, 2012*, including Schedules I, II and III ~~of its final order~~ i.e., **January 1, 2013**.

Comments on the Issues for Consultation

Q 1. What should be the 'utilization factor' for determination of annual access facilitation charges, annual operation and maintenance charges for capacity provided on IRU basis, and co-location charges in the Schedules appended to "The International Telecommunication Cable Landing Stations Access Facilitation Charges and Co-Location Charges Regulations, 2012" dated 21.12.2012 ?

Response to Question No. 1:

AT&T agrees with the TRAI's overall approach and decision, which properly recognizes that the predominant form of access is now at the 10G/STM-64 level. The TRAI has appropriately based its calculations of apportioned capital cost on fully loaded equipment and has applied a utilization factor of 70 percent in calculating average annual CAPEX. Since at 70 percent utilization the relevant CLS equipment may, if necessary, be augmented on an economic basis within a reasonable timeframe, 70 percent is a conservative utilization factor that provides more than adequate buffer capacity to meet unexpected near term increases in demand. AT&T submits that the 70% utilization factor used by the TRAI is well within the international norms and practice, which tend to have higher utilization.

Q 2. What should be the 'conversion factor' (refer Para 2.22) for determination of annual access facilitation charges and annual operation and maintenance charges for capacity provided on IRU basis in the Schedules appended to "The International Telecommunication Cable Landing Stations Access Facilitation Charges and Co-Location Charges Regulations, 2012" dated 21.12.2012?

Response to Question No. 2:

AT&T supports the TRAI's earlier recommendation of fixing the conversion factor at 2.6 for determining access facilitation charge for lower capacities i.e. STM-1, STM-4 and STM-16 from 10 G/ STM-64 capacity. We also support the two evidentiary bases for this conversion factor level, i.e., (a) economies of scale associated with higher capacities; and (b) prevailing market conversion factors for domestic leased circuits. Most of the stakeholders during the consultation proceedings in 2012, favored using the chosen factor of 2.6 – and even in the India domestic backbone scenario, the standard conversion factor currently used is in the similar range. .

We also support TRAI's earlier view that a higher conversion factor will not be appropriate as it will result in non-uniformity of charges across different capacities. This will also not provide advantages of economies of scale as we move towards higher capacities.

The current RIO charges based on 2007 rates, reflect a uniform conversion factor of 4 and only for 4speeds - STM1/STM4/STM16/10G. This not only completely ignores the co-relation between economies of scale and capacity size- the higher the capacity size the greater the economy of scale, but, as noted by the Authority, results in exponentially higher charges for higher capacities. AT&T reiterates that a conversion factor of 2.6 is reasonable as against the current factor of 4 used by OCLs for such circuits, which increases the price for higher capacities in an unwarranted exponential fashion, which is against the basic economic principles, including of costing and pricing.

As an example, from other parts of the world, it is seen that the price for a 10G is around 2-3 x 1G pricing on an end to end service. In fact, there have been instances in the global arena that a seeker, when adding a 2nd STM1, normally went to STM4 as there was parity on price at both these speeds, and similarly in the case of STM4 to STM16. Further, as in the case of Domestic Leased Circuits, the charges for RIO / AFA should also be based on the same conversion factor i.e., 2.6.

AT&T again commends the Authority for the important steps it has taken to establish more reasonable and cost-based rates for these important facilities, which will provide significant benefits to the Indian market and facilitate the government's Digital India initiative. The Authority should require these new rates to be applied to all access arrangements at India's cable stations from the effective date i.e., **January 1, 2013**.

AT&T would be pleased to answer any questions concerning these comments.

Respectfully submitted,

Naveen Tandon
Authorised Signatory

October 29, 2018