

**[NTC MEMORANDUM CIRCULAR NO. 11-9-93,
September 17, 1993]**

IMPLEMENTING GUIDELINES ON THE PROVISIONS OF E.O. 109

Pursuant to Executive Order No. 109 and the powers vested upon the National Telecommunications Commission under Act No. 3846, as amended (Radio Control Law), Act No. 146, as amended (Public Service Act) and Executive Order No. 546 Series of 1979, the following guidelines on the provisioning of local exchange carrier services is hereby promulgated:

Article I

Scope and Definition of Terms

SECTION 1. This circular shall set the guidelines for the obligatory provisioning of local exchange carrier (LEC) services by the operators of international gateway facilities IGF), the cellular mobile telephone service (CMTS) and other non-basic telecommunications services which are considered source of subsidy.

SECTION 2. As used in this circular, the following definitions shall apply:

Local Exchange Service Area shall refer to a defined area as determined by the Commission within a municipality or city or combinations of two or more cities and/or municipalities under a common local exchange rate schedule.

Urban shall refer to the local exchange service areas where the telephone density is more than 1 per 100 inhabitants and shall be based on the telephone density targets from the approved National Telephone Development Plan (NTDP), expressed as main station per 100 persons.

Rural shall refer to local exchange service areas where the telephone density, as mentioned above is 1 per 100 inhabitants or less.

Unserved Areas shall refer to the local exchange service areas within the Philippines where is no existing local telephone exchange service.

Underserved Areas shall refer to the local exchange telephone service areas within the Philippines where local exchange service is available but the number of existing telephone connections and available lines are less than the established telephone density as in the definition of URBAN or when the LEC cannot provide the service to 90% of applicants within ten (10) working days from date of application.

Public Telecommunications Carrier (PTC) shall refer to duly enfranchised and NTC certificated telecommunications carrier and/or any entity duly authorized by law, including the government, to provide public telecommunications services.

Basic Telecommunications Service shall refer to local exchange residence and business telephone service and telegraph service without additional features.

Additional Features shall refer to the enhancements made over the plain telephone/telegraph service for which the subscriber are made to pay additional charges.

Non-Basic Telecommunications Service shall refer to all types of telecommunications services not classified under basic telecommunications service.

International Switch Termination shall refer to a port in the switching international gateway system equivalent to 4KHz or 64 kbps (analog or digital) where international circuit terminates.

Commission shall refer to the National Telecommunications Commission.

Article II Service Packaging

SECTION 3. All existing authorized inter-national gateway facilities (IGF) operators shall file petition for issuance of Certificate of Public Convenience and Necessity (CPCN) to install, operate, and maintain local exchange carrier services in unserved and underserved areas, including Metro Manila within two (2) years from the effectivity of this Circular. The petition shall include among others, documents showing:

3.1 The list of proposed service areas after consultation with the Commission. The consultation is necessary to rationalize the provision of LEC services in the country.

3.2 The legal, financial, and technical capabilities to undertake the proposed project/program;

3.3 The implementation time frame not to exceed three (3) years from the grant of the authority to install, operate, and maintain LEC service; and

SECTION 4. All existing authorized IGF operators shall provide a minimum of three hundred (300) local exchange lines per one international switch termination. All authorized IGF operators shall be required to provide a minimum of three hundred thousand (300,000) local exchange lines within a period of three (3) years from the date of authority to install, operate, and maintain LEC service.

SECTION 5. An authorized IGF operator shall be considered to have complied with the provisions of Article II, Section 4 hereof if any of the following conditions is satisfied:

5.1 The IGF operator on its own shall have provided LEC service and/or Public Calling Offices (PCOs) pursuant to Article II Section 4.

5.2 The IGF operator shall have provided LEC service and/or PCOs as part-owner of the LEC and/or PCO operators provided that the compliance shall be based on the extent of international gateway facilities operator's equity exposure in the LEC

and/or PCO. This provision shall not apply if the LEC from which the IGF operator acquires equity is also an authorized operator of IGF.

5.3 A PTC affiliated to an existing authorized IGF operator shall have been authorized to assume the obligation to provide the local exchange lines and/or PCOs as required Article II, Section 4 hereof. An affiliated PTC is herein defined as an entity that directly or indirectly controls, or is controlled by or is under common control together with another entity through the possession of the power to direct or cause the direction of the policies of the entity or enterprise whether through the ownership of equity, interlocking directorate or common management, by contract or otherwise.

SECTION 6. As the IGF operator increases its international switch terminations in excess of 1,000 there shall be a corresponding increase in the local exchange lines pursuant to Section 4 hereof.

SECTION 7. All IGF operator shall provide at least one (1) rural local exchange line for every ten (10) urban local exchange lines installed.

SECTION 8. An IGF which provides PCOs in an unserved rural barangay shall be deemed to have installed local telephone subscriber lines equal to the number of households in that particular barangay divided by 10.

SECTION 9. Public telecommunications carriers that have complied with the provisions of Sections 4 and 7, may be authorized upon application and after due notice and hearing to install, operate, and maintain international gateways and/or CMTS subject to legal, financial, and technical capabilities of the PTCs.

SECTION 10. Applicant for new IGF operation shall not be granted authority unless it can show by substantial and convincing evidence that it can establish the necessary foreign correspondentship and that it can provide local exchange service pursuant to Article II, Section 4 and 7 within five (5) years from grant of authority. The grant of authority shall consider the viability of the IGF service and its being able to provide a source of subsidy for LEC service until the said service shall have been priced reflecting cost.

SECTION 11. The subsidiaries of public telecommunications carriers operating an authorized international gateway as defined in E.O. 109 shall not be allowed to operate other international gateway pursuant to Executive Order No. 59.

Article III

Cellular Mobile Telephone System (CMTS) and Other Non-Basic Telecommunications Services

SECTION 12. Authorized IGF, upon application and after due notice and hearing may be authorized to provide CMTS and other non-basic telecommunications services which are possible sources of subsidy.

SECTION 13. The grant of authority to applicants for CMTS shall consider the viability of the CMTS service and its ability to provide a source of subsidy for LEC service, until the LEC service shall have been priced reflecting cost. Authorized