



## **Media Statement**

**4 November 2011**

### **COMMERCE COMMISSION MEDIA RELEASE – REVISED DRAFT REVIEWS OF THE APPLICATION OF THE INITIAL PRICING PRINCIPLE OF, AND UPDATED BENCHMARKING FOR, THE UCLL AND SUB-LOOP SERVICES STANDARD TERMS DETERMINATIONS AND CONSEQUENTIAL CHANGES TO THE UBA UP-LIFT.**

The Commerce Commission has today released the attached draft review of the application of the initial pricing principle of, and updated benchmarking for, the UCLL and Sub-loop Services standard terms determinations and consequential changes to the UBA up-lift.

**ENDS**

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**Revised draft reviews of the application of the initial  
pricing principle of, and updated benchmarking for, the  
UCLL and Sub-loop Services standard terms  
determinations and consequential changes to the UBA  
up-lift**

**DECISION NO. xxx**

**The Commission:**

Dr Ross Patterson  
Anita Mazzoleni  
Gowan Pickering  
Pat Duignan

**Date of draft review decisions:**

**xx November 2011**

## Purpose

1. The purpose of this revised draft decision is to set out the Commission's revised preliminary views, following the conference on 27 October 2011, in relation to two reviews being conducted under section 30R of the Telecommunications Act 2001. These are the:
  - review of the UCLL, UBA and Sub-loop Services standard terms determinations (STDs) for the purpose of implementing clause 4A, as inserted by the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011 (the Amendment Act) (referred to as the clause 4A review)
  - review of the UCLL, UBA and Sub-loop Services STDs for the purpose of updating the benchmark data set used in the UCLL STD, and consequently updating the prices in the UCLL, UBA and Sub-loop Services STDs (referred to as the benchmarking review).

## Summary

2. The Commission's preliminary views in this revised draft decision are:
  - The Commission is required to complete the clause 4A reviews prior to separation day; it is, however, not required to complete the benchmarking review prior to separation day.
  - It is not necessary for the Commission to re-benchmark UCLL prices for the clause 4A review. It is open to the Commission to either re-benchmark or to undertake a simple averaging of the existing de-averaged prices.
  - The significance of issues raised in submissions and at the conference regarding the possible approaches to re-benchmarking, and the data set for any re-benchmarking approach, mean that re-benchmarking can not be completed in the timeframe for the clause 4A review. For the same reasons, the benchmarking review can not be completed before separation day.
  - Therefore the Commission's preliminary view is that it should separate the two reviews, with:
    - o the clause 4A review to be completed before separation day, involving a simple geographical averaging of the UCLL, UCLL uplift to UBA and Sub-loop prices
    - o the benchmarking review to be completed after separation day.
  - If the Commission completes the clause 4A review based on a simple averaging of the existing de-averaged prices, then:
    - o The geographically averaged UCLL price will be \$24.46 (based on an averaging of the existing de-averaged prices, weighted by the most

recent lines data ie with 72.45% of lines being urban and 27.55% of lines being non-urban). This price will apply three years after separation day.

o The geographically averaged UCLL price of \$24.46 would apply as the uplift for the naked UBA service. This price would apply from separation day.

o The geographically averaged Sub-loop UCLL price would be \$14.77. This is calculated using the sub-loop/full loop ratio of 60.4% (described in the Sub-loop Services STD) and the geographically averaged UCLL price of \$24.46. This price would apply from three years after separation day.

3. Submissions are invited on the Commission's preliminary views in this revised draft decision by **4pm on Friday 11 November 2011**. Cross-submissions will then be due by **5pm on Wednesday 16 November 2011**.

## Introduction

4. On 9 September the Commission released a draft decision under section 30R of the Telecommunications Act 2001 (the Act), in combination with the applicable powers of the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011 (the Amendment Act), for the clause 4A review and the benchmarking review in relation to the UCLL and UBA STDs (referred to as the draft decision).
5. In the draft decision the Commission's preliminary view on the approach to the clause 4A and benchmarking reviews was that:<sup>1</sup>
  - The Commission considered updating its original benchmark set to identify movements in prices for **similar services** in **comparable countries** that use a **forward-looking cost-based** pricing method. However, as an update of the benchmark set produces only two benchmark observations (Finland and Sweden), the Commission does not consider using the price change observed in two jurisdictions is sufficiently robust to set updated UCLL monthly rental prices and connection charges in New Zealand, as the observed prices may not reflect overall international trends in costs.
  - Rather, the Commission has benchmarked price trends for those jurisdictions that have consistently applied the same forward-looking cost-based pricing method at the time of the UCLL STD (in 2007) and at the present day. This generates a sample set of seven jurisdictions where there is a trend in prices for UCLL monthly rental prices and six jurisdictions where there is a trend in prices for UCLL connection charges.
6. The draft decision therefore:
  - updated the monthly UCLL prices and connection charges to reflect international trends in forward-looking cost-based UCLL prices
  - consequentially updated the uplift to UBA without POTS prices

<sup>1</sup> Draft decision page 6, paragraph 2.

- proposed geographically averaged monthly prices that would apply for the UBA STD from separation day<sup>2</sup> and for the UCLL STD from three years after separation day.
7. The draft decision noted that a further decision would be issued at a later time for the clause 4A review and the benchmarking review in relation to the Sub-loop Services STD.

### Submissions and cross-submissions on the approach to the reviews

8. Interested parties submitted that:
- The Commission's approach to benchmarking price trends was appropriate (Chorus submission).<sup>3</sup>
  - The benchmarking approach adopted by the Commission was not in accordance with the initial pricing principle (IPP) and the Commission was required to undertake a new benchmarking exercise (TelstraClear, Vodafone and CallPlus and Kordia submissions).<sup>4</sup>

### Conference

9. At the conference, parties supported the positions from their submissions, with the following additional points being made:
- TelstraClear acknowledged that both approaches are open to the Commission; however, it considered that section 19 considerations lead to a view that fresh benchmarking is the most appropriate approach.<sup>5</sup>
  - Telecom / Chorus stated that adopting the re-benchmarking approach would be a material change in the Commission's views, and if the Commission adopted that approach then Telecom / Chorus would expect the Commission to conduct a longer review process with further consultation and a revised draft decision.<sup>6</sup>

<sup>2</sup> Separation day means the day on which Telecom Corporation of New Zealand Limited distributes 100% of the ordinary shares it holds in ChorusCo in accordance with the demerger arrangement.

<sup>3</sup> See for example Chorus, *Submission on Commission draft reviews of the application of the initial pricing principle of, and updated benchmarking for, the UCLL STD and consequential changes to the UBA uplift*, 3 October 2011, page 2, paragraph 3.

<sup>4</sup> See for example, TelstraClear, *Submission on the Reviews of the Application of the Initial Pricing Principle of, and updated benchmarking for, the UCLL Standard Terms Determinations and consequential changes to the UBA Up-lift*, 2 October 2011, page 2, paragraph 2; Vodafone, *Review of the Initial Pricing Principle and updating of the Unconditioned Local Loop service (UCLL)*, 3 October 2011, page 2; CallPlus and Kordia, *Draft reviews of the application of the initial pricing principle of, and updated benchmarking for, the UCLL standard terms determinations and consequential changes to the UBA uplift*, 3 October 2011, page 2, paragraph 3.

<sup>5</sup> Ross Young, Conference transcript page 49.

<sup>6</sup> John Wesley-Smith, Conference transcript pages 11, 126 and 165-166.

10. At the conference the Commission also asked for parties views on whether an alternative approach to the clause 4A review of a mechanical averaging of existing prices was open to the Commission.<sup>7</sup> Parties responded making the following points:
- Telecom / Chorus stated that they had considered that a mechanical averaging approach was envisaged during the select committee and parliamentary processes, and was open to the Commission.<sup>8</sup>
  - TelstraClear indicated that it considered it was possible to construe the definition of geographically averaging as a technical exercise but thought the better approach was to apply the IPP including re-benchmarking.<sup>9</sup>
  - Vodafone considered that the definition of geographically averaged prices ensures that nationwide prices be set, and that does not change the requirement that the Commission apply the IPP including re-benchmarking.<sup>10</sup>

## Commission's analysis

### *When is the Commission required to complete the reviews?*

11. In the draft decision, the Commission considered it was appropriate to undertake the benchmarking review at the same time as the clause 4A review, in order to ensure that the decisions reached in both reviews were more likely to best give effect to section 18 and in order to minimise the risk of distortions which could result if two different UCLL prices were to apply at the same time.<sup>11</sup>
12. The Commission has revisited the issue of when it is required to complete the reviews in light of submissions and issues raised at the conference.
13. Section 73 of the Amendment Act requires that the Commission complete its review of the UBA STD for the purpose of implementing clause 4A prior to separation day, and make reasonable efforts to complete its review of the UCLL and Sub-loop Services STDs for the purpose of implementing clause 4A prior to separation day. Practically, as the UBA STD applies uplifts for the naked UBA price derived from the UCLL STD, both reviews need to be completed prior to separation day.
14. Section 73 of the Amendment Act is set out below:

**73 Commission must complete reviews of standard terms determinations for certain designated access services before separation day**

- (1) The Commission must review the standard terms determination for Telecom's unbundled bitstream access dated 12 December 2007 before separation day for the purpose of making any changes to the determination that may be necessary for the purpose of implementing

<sup>7</sup> Dr Ross Patterson, Conference transcript pages 28-30.

<sup>8</sup> John Wesley-Smith, Conference transcript pages 30-31.

<sup>9</sup> Ross Young, Conference transcript pages 31-33.

<sup>10</sup> Kylie Wong, Conference transcript pages 33-35.

<sup>11</sup> Draft decision, page 14, paragraphs 32-34.

clause 4A of subpart 1 of Part 1 of Schedule 1 of the principal Act from the close of the day before separation day.

- (2) The Commission must make reasonable efforts to do the following before separation day:
    - (a) review each of the standard terms determinations referred to in the first column of the table in subsection (5) for the purpose of making any changes or (in the case of the standard terms determination for Telecom's unbundled bitstream access) any further changes that may be necessary in order for the determination to apply to the designated access service set out opposite that determination in the second column of that table from the close of the day before separation day; and
    - (b) review the standard terms determination for Telecom's unbundled copper local loop network dated 7 November 2007 (in this section, the unbundled copper local loop network determination) and the Sub-loop services standard terms determination for the purpose of making any changes to those determinations that may be necessary for the purpose of implementing clause 4A of subpart 1 of Part 1 of Schedule 1; and
    - (c) give public notice of the results of each review.
  - (3) However, no variation of, addition to, or deletion of terms in the unbundled copper local loop network determination or the Sub-loop services standard terms determination that relates to the implementation of clause 4A of subpart 1 of Part 1 of Schedule 1 may take effect before the expiry of 3 years from separation day.
  - (4) To avoid doubt, clause 4A of subpart 1 of Part 1 of Schedule 1 of the principal Act applies to Chorus's unbundled bitstream access service on and after separation day and any changes made to the standard terms determination in accordance with subsection (1) for the purpose of implementing that clause take effect from the close of the day before separation day. ...
15. The benchmarking review is not subject to the same time restriction, as while it is being carried out under section 30R, it is not subject to clause 4A or the provisions of the Amendment Act.<sup>12</sup>
  16. Section 30R(4) of the Act states that "The Commission may conduct a review in the manner, and within the time, that it thinks fit."
  17. Therefore the Commission is not required to complete the benchmarking review before separation day.

#### ***What does clause 4A require?***

18. In the draft decision the Commission considered that it was required under the clause 4A review to determine a geographically averaged price in applying the IPP for the UCLL, UBA and Sub-loop Services STDs. The Commission considered, as a part of the clause 4A review, that it was appropriate, having regard to the UCLL Service, Clause 4A and sections 18 and 19(c), to update UCLL prices to reflect international movements in UCLL prices.<sup>13</sup>
19. The Commission has revisited the issue of what clause 4A requires in light of submissions and issues raised at the conference.

<sup>12</sup> However, if the benchmarking review were to conclude after separation day, then the Commission could not use the results of the benchmarking review to update the UBA STD because of section 75 of the Amendment Act.

<sup>13</sup> Draft decision, page 14, paragraph 27.

20. Clause 4A requires the Commission to apply the initial pricing principle to determine geographically averaged prices for the UBA and UCLL Services. The plain meaning of “apply” is to “make use of as relevant or suitable”.<sup>14</sup> Clause 4A is a provision of ongoing application and must be given a meaning that applies workably to the determinations before the Commission during the transition period (for the three years after separation day) and to all future determinations.
21. The purpose of clause 4A is to ensure that the prices determined by the Commission are an average across all geographic regions in New Zealand as required by the definition of “geographically averaged price”.
22. The requirement to implement clause 4A is set out in sections 73(1) and 73(2)(b) of the Amendment Act. The Commission is required to conduct a review under section 30R, but may only make changes which it considers “may be necessary” to implement clause 4A. Given that the purpose of the provision is to enable the Commission to make its determinations workable in the new statutory framework, the Commission considers that the term “necessary” means reasonably necessary.<sup>15</sup>
23. At the conference, TelstraClear and Telecom / Chorus considered that clause 4A did not require the Commission to benchmark the price of UCLL although Vodafone (supported by CallPlus) argued that clause 4A required the Commission to re-benchmark.

***Is benchmarking required as part of the clause 4A reviews?***

24. While the preliminary view reached in the Draft Decision was that it is desirable to update UCLL prices for the purposes of clause 4A, the Commission does not consider that it is necessary to re-benchmark prices for the purposes of the reviews required by sections 73(1) and 73(2)(b).
25. This is because the Commission’s preliminary view is that clause 4A:
  - does not require that the Commission must conduct a new benchmarking exercise
  - can include a modification to a previous applied pricing principle, such as a simple averaging,

<sup>14</sup> Concise Oxford Dictionary, 9<sup>th</sup> Edition

<sup>15</sup> See for example *Brown v Maori Appellate Court* [2001] 1 NZLR 87 (HC) at [51] and the authorities cited therein. In *Brown v Maori Appellate Court*, the Full Court of the High Court stated:

"Necessary" is properly to be construed as "reasonably necessary". We do not accept the contrary suggestion by [the Judge below] that, in context, an order is not necessary unless "there is no other way". The Court is not required to conclude in an absolute sense that there is no other way. But the test is not a light one. Necessity is a strong concept. What may be considered reasonably necessary is closer to that which is essential than that which is simply desirable or expedient.

because the plain meaning of “apply” in the phrase “applying the initial pricing principle” is to “make use of as relevant or suitable”<sup>16</sup>, and re-benchmarking is not necessary to give effect to clause 4A.

26. Both the intent and purpose of clause 4A are clear – to ensure that there is a single price across New Zealand.<sup>17</sup> There is no reason for clause 4A to require re-benchmarking to achieve that intent or purpose. Nor is there anything in the context or legislative history that suggests that a mandatory re-benchmarking was intended.

***The Commission does not consider it can undertake benchmarking for the clause 4A review***

27. While the Commission’s preliminary view above is that re-benchmarking is **not required** for the clause 4A review, the Commission needs to determine **whether** re-benchmarking **should** be undertaken as part of the clause 4A review.
28. Submissions on the approach that the Commission should take, if it were to re-benchmark have raised numerous issues regarding the appropriate approach to re-benchmarking (ie either benchmarking price trends or undertaking a new benchmarking exercise) and the benchmark data set that would apply under each approach.
29. Parties have raised significant issues with both approaches which would benefit from further consideration. For example, these issues include:
- the countries to be included in the benchmark data set under each approach, including whether US states and Australia should be included in the benchmark set
  - the poor correlation of the current data with the comparability element of the IPP, including whether loop lengths are the most comparable driver of UCLL costs.
30. The Commission considers that these issues require further international benchmarking, information gathering and consultation in order for it to reach a final view.
31. The potential for significant consequences for UCLL prices as a result of any decisions that the Commission reaches in relation to these issues mean that it is important to ensure the IPP benchmarking represents a reasonable proxy for the FPP.

<sup>16</sup> Concise Oxford Dictionary, 9<sup>th</sup> Edition

<sup>17</sup> The justification for averaging was clearly stated in the Select Committee Report on the bill at p19: This averaging is necessary because under the TSO, Telecom, unlike its competitors, has to provide national pricing for some services, despite facing de-averaged input prices, and therefore cross-subsidise them. However, Telecom faces profit erosion in this area, and a structurally separated Telecom could no longer cross-subsidise losses between the new Telecom and Chorus entities.

32. In addition, as noted by Telecom / Chorus at the Conference<sup>18</sup>, where the Commission has adopted a revised position in previous section 30R review and STD processes, the Commission has released a revised decision and sought further submissions. Separating the reviews would allow for further consultation on issues relating to the benchmarking review, possibly including releasing a revised preliminary view on the approach to the benchmarking review, and consideration of those issues over a longer timeframe.
33. The Commission's preliminary view is, therefore, that re-benchmarking can not be completed in the timeframe for the clause 4A review. The Commission therefore proposes separating the clause 4A review, and completing that review prior to separation day, from the benchmarking review, which would continue after separation day (as detailed in paragraph 44 below).

***The Commission does not consider it can complete the benchmarking review prior to separation day***

34. While the Commission's preliminary view above is that it is **not required** to complete the benchmarking review prior to separation day, the Commission needs to determine **whether** it **should** complete the benchmarking review prior to separation day.
35. Consistent with the Commission's preliminary view above that re-benchmarking can not be completed in the timeframe for the clause 4A review, the Commission considers that it can not complete the benchmarking review prior to separation day.

**Potential for divergence between naked-UBA and UCLL prices**

36. There is the potential for divergence between the uplift applied to the naked-UBA price and the UCLL price, as a result of the separation of the reviews, if the benchmarking review results in a reduction in UCLL prices.
37. Vodafone acknowledged at the Conference that "If the differential is limited to existing naked DSL at the time of separation, I think it needs to be borne in mind that to some extent naked DSL is in an embryonic stage."<sup>19</sup> CallPlus / Kordia supported Vodafone's comments and indicated that "We would be prepared, given the early thing, to live with the anomaly."<sup>20</sup> Telecom / Chorus also indicated that they considered any price differential between the uplift applied to the naked-UBA price and the UCLL price was "unlikely to be a material issue".<sup>21</sup>
38. The potential for divergence could be avoided if the UCLL uplift in the UBA determination was set by a cross reference to the price set in the UCLL STD from time to time. The Commission considers that such an approach is open to it; although such an approach may be inconsistent with sections 75 and 76 of the Amendment

<sup>18</sup> See note 6 above.

<sup>19</sup> Chris Abbott, Conference transcript page 27.

<sup>20</sup> Graham Walmsley, Conference transcript page 28.

<sup>21</sup> John Wesley-Smith, Conference transcript page 101.

Act. The Commission's preliminary view is that it is not appropriate to set the UCLL uplift in the UBA determination by a cross reference to the price set in the UCLL STD from time to time.

### **Resulting prices for the UCLL, UBA and Sub-loop Services monthly rentals**

39. The geographically averaged UCLL price contained in the UCLL STD is \$24.29. This price was calculated by benchmarking averaged UCLL prices from other jurisdictions, and is the geographic average of the current urban and non-urban UCLL prices of \$19.84 and \$36.63.

40. If the Commission confirms its revised preliminary views above that simple averaging of existing geographically de-averaged prices is appropriate for the clause 4A review, then:

- the Commission's preliminary view is that the appropriate approach to re-averaging the existing de-averaged prices is through using lines data for 2011. The proportion of urban and non urban lines in 2011 is 72.45% and 27.55% respectively. The calculation for the updated averaged price is:

$$(\text{urban UCLL price} \times \text{proportion of urban lines 2011}) + (\text{non-urban UCLL price} \times \text{proportion of non-urban lines 2011})$$

$$= (\$19.84 \times 0.7245) + (\$36.63 \times 0.2755)$$

$$= \$14.37 + \$10.09$$

$$= \$24.46$$

- the following geographically averaged prices would apply:
  - The geographically averaged UCLL price would be \$24.46. This price would apply from three years after separation day.
  - The geographically averaged UCLL price of \$24.46 would apply as the uplift for the naked UBA service. This price would apply from separation day.

41. As a result of the above preliminary views that a simple averaging of existing geographically de-averaged prices is appropriate for the clause 4A review, the Commission considers that this revised draft decision can also review the Sub-loop Services prices. As a result the geographically averaged Sub-loop UCLL price would be \$14.77. This is calculated using the sub-loop/full loop ratio of 60.4% (described in the Sub-loop Services STD) and the geographically averaged UCLL price of \$24.46. This price would apply from three years after separation day.

42. Changes needed to give effect to these prices are set out in Attachment 1.

## Consultation

43. Submissions are invited on the Commission's preliminary views in this revised draft decision by **4pm on Friday 11 November 2011**. Cross-submissions will then be due by **5pm on Wednesday 16 November 2011**.
44. If the Commission determines that the reviews should be separated, then the Commission intends to:
- release its final decision on the clause 4A reviews by Monday 28 November 2011, with public notice being published by Tuesday 29 November 2011
  - release a consultation paper on the re-benchmarking reviews before the end of December 2011. The issues to be considered in, and the timeframes for, that consultation process will be set out at that.

**DATED** at Wellington this 4<sup>th</sup> day of November 2011

Dr Ross Patterson  
Telecommunications Commissioner  
Commerce Commission

## **Attachment 1: Changes made to UCLL, UBA and Sub-loop Services STDs as a result of the clause 4A review**

1. This Attachment lists the changes that would be made to the UCLL, UBA and Sub-loop Services STDs, under the Commission's preliminary views set out in this revised draft decision in relation to the clause 4A review. The changes in this Appendix would come into effect in relation to:
  - the UBA STD, from the close of the day before separation day
  - the UCLL and Sub-loop Services STDs, on the expiry of three years after separation day.
2. In addition to these changes, the Commission expects further changes to be made to the UCLL, UBA and Sub-loop Services STDs as a result of additional reviews that will:
  - make any consequential amendments required as a result of the Amendment Act – these changes will come into effect from the close of the day before separation day
  - apply cost-based pricing in relation to the UBA STD – these changes will come into effect on the expiry of three years after separation day.
3. The additional changes proposed in this Appendix are from the current text of the UCLL, UBA and Sub-loop Services STDs. The Commission intends to consolidate all changes to the UCLL and UBA STDs into updated versions of those STDs, and to publish the consolidated versions of the STDs on its website at some stage after separation day.

| <b>UCLL STD General Terms<sup>22</sup> - these changes come into effect on the expiry of three years after separation day</b>                |                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clause 1.1<br>Definitions                                                                                                                    | Delete definitions of "Non-urban Exchange" and "Urban Exchange"                                                                                                           |
| Clause 13 MPF<br>Service monthly<br>Charge                                                                                                   | Delete clause 13.                                                                                                                                                         |
| <b>UCLL STD Schedule 2 – UCLL Price List<sup>23</sup> - these changes come into effect on the expiry of three years after separation day</b> |                                                                                                                                                                           |
| Service component<br>2.1 MPF Service<br>Monthly Charge                                                                                       | Delete following text from column headed "Charge":<br><br>"\$19.84 (urban exchange) <sup>1</sup><br>\$36.63 (non-urban exchange)"<br><br>and replace with following text: |

<sup>22</sup> Changes are to the text of the UCLL STD General Terms including all amendments and clarifications up until 23 December 2009.

<sup>23</sup> Changes are to the text of the UCLL STD Schedule 2 – UCLL Price List including all amendments and clarifications up until 10 November 2010.

|                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                                                                                                       | "\$24.46."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Appendix 1: List of Urban Exchanges                                                                                                                   | Delete Appendix 1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>UCLL STD – Schedule 3 UCLL Service Level Terms<sup>24</sup> - these changes come into effect on the expiry of three years after separation day</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Performance Penalties Item No. 15, footnote 8                                                                                                         | Delete the following text:<br><br>"The applicable MPF Service Monthly Charge will depend on whether the fault relates to an urban or non-urban exchange."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>UBA STD – Schedule 2 UBA Price List<sup>25</sup> - these changes come into effect from the close of the day before separation day</b>              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Clause 6.1<br>Adjustments to the UBA Service (without POTS) Charges                                                                                   | Delete the following text:<br><br>"(including Urban and Nonurban)".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Clause 6.2<br>Adjustments to the UBA Service (without POTS) Charges                                                                                   | Delete the following text:<br><br>"6.2.1 For the purposes of clause 6.2:<br>a. UCLL Urban Charge means the urban exchange charge; and<br>b. UCLL Non-urban Charge means the non-urban exchange charge, for Service Component 2.1 MPF Service Monthly Charge in Schedule 2, UCLL Price List of the Commission's UCLL Standard Terms Determination.<br>6.2.2 Basic UBA Monthly (without POTS) Charge (Urban) = Basic UBA Monthly Charge + UCLL Urban Charge<br>6.2.3 Basic UBA Monthly Charge (without POTS) Charge (Non-urban) = Basic UBA Monthly Charge + UCLL Non Urban<br>6.2.4 40 kbps Enhanced UBA Monthly (without POTS) Charge (Urban) = 40 kbps Enhanced UBA Monthly Charge + UCLL Urban Charge<br>6.2.5 40 kbps Enhanced UBA Monthly (without POTS) Charge (Non-urban) = 40 kbps Enhanced UBA Monthly Charge + UCLL Non-urban Charge<br>6.2.6 90 kbps Enhanced UBA Monthly (without POTS) Charge (Urban) = 90 kbps Enhanced UBA Monthly Charge + UCLL Urban Charge<br>6.2.7 90 kbps Enhanced UBA Monthly (without POTS) Charge (Non-urban) = 90 kbps Enhanced UBA Monthly Charge + UCLL Non-urban Charge<br>6.2.8 180 kbps Enhanced UBA Monthly (without POTS) Charge (Urban) = 180 kbps Enhanced UBA Monthly Charge + UCLL Urban Charge" |

<sup>24</sup> Changes are to the text of the UCLL STD Schedule 3 – UCLL Service Level Terms including all amendments and clarifications up until 23 December 2009.

<sup>25</sup> Changes are to the text of the UBA STD Schedule 2 – UBA Price List including all amendments and clarifications up until 12 April 2011, and including price changes approved on 8 September 2011. These prices will be updated to reflect any price changes approved prior to a final decision being issued on the clause 4A review.

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|                                                                                                                                    | <p>6.2.9 180 kbps Enhanced UBA Monthly (without POTS) Charge (Non-urban) = 180 kbps Enhanced UBA Monthly Charge + UCLL Non-urban Charge”</p> <p>And replace with the following text:</p> <p>“6.2.1 For the purposes of clause 6.2. UCLL Monthly Charge means the charge for Service Component 2.1 MPF Service Monthly Charge in Schedule 2, UCLL Price List of the Commission’s UCLL Standard Terms Determination.</p> <p>6.2.2 Basic UBA (without POTS) Monthly Charge = Basic UBA Monthly Charge + UCLL Monthly Charge</p> <p>6.2.3 40 kbps Enhanced UBA Monthly (without POTS) Charge = 40 kbps Enhanced UBA Monthly Charge + UCLL Monthly Charge</p> <p>6.2.4 90 kbps Enhanced UBA Monthly (without POTS) Charge = 90 kbps Enhanced UBA Monthly Charge + UCLL Monthly Charge</p> <p>6.2.5 180 kbps Enhanced UBA Monthly (without POTS) Charge = 180 kbps Enhanced UBA Monthly Charge + UCLL Monthly Charge”.</p> |
| Service component 2.1 Basic UBA Service Full Speed/Full Speed Service without POTS Monthly Charge.                                 | <p>Delete following text from column headed “Charge”:</p> <p>“\$40.50 Urban or<br/>\$57.29 Non-urban”</p> <p>and replace with following text:</p> <p>“\$45.12”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Service component 2.3 40 kbps Enhanced UBA Service without POTS Monthly Charge. The real time class of service profile is 40kbps.  | <p>Delete following text from column headed “Charge”:</p> <p>“\$44.74 Urban or<br/>\$61.53 Non-urban”</p> <p>and replace with following text:</p> <p>“\$49.36”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Service component 2.4 90 kbps Enhanced UBA Service without POTS Monthly Charge. The real time class of service profile is 90 kbps. | <p>Delete following text from column headed “Charge”:</p> <p>“\$52.78 Urban or<br/>\$69.57 Non-urban”</p> <p>and replace with following text:</p> <p>“\$57.40”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Service component 2.5 180 kbps Enhanced UBA Service without POTS Monthly Charge. The real time class of service                    | <p>Delete following text from column headed “Charge”:</p> <p>“\$59.66 Urban or<br/>\$76.45 Non-urban”</p> <p>and replace with following text:</p> <p>“\$64.28”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| profile is 180 kbps.                                                                                                                                                         |                                                                                                                                                                |
| <b>Sub-loop Services STD Appendix 1 Schedule 2 – Sub-Loop UCLL Price List<sup>26</sup>- these changes come into effect on the expiry of three years after separation day</b> |                                                                                                                                                                |
| Clauses 2.4 and 2.5 Charges                                                                                                                                                  | Delete clauses 2.4 and 2.5.                                                                                                                                    |
| Service component 2.1 Sub-loop MPF Service monthly Charge                                                                                                                    | Delete following text from column headed “Charge”:<br>“\$11.99 (Urban Charge)<br>\$22.14 (Non-urban Charge)”<br>and replace with following text:<br>“\$14.77”. |
| Appendix A: List of urban and non-urban distribution Cabinets                                                                                                                | Delete Appendix A.                                                                                                                                             |

<sup>26</sup>

Changes are to the text of the Sub-loop Services STD Appendix 1 Schedule 2 – Sub-Loop UCLL Price List including all amendments and clarifications up until 10 November 2010.