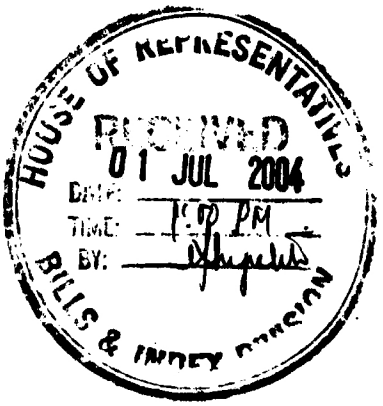


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 277

Introduced by Representative **JOSE C. DE VENECIA, JR.**

EXPLANATORY NOTE

In 1995, Republic Act 7925 otherwise known as the Telecommunications Public Policy Act further liberalized the telecommunications sectors and allowed the entry of more players in the industry. However, the presence of more players did not ensure the promotion of universal access to telecommunications due to interconnection disputes between and among telecom carriers.

Non-dominant carriers are compelled to interconnect with the dominant carrier owing to the latter's wide base of subscribers. The dominant carrier, on the other hand, is not willing to interconnect unless its conditions are met. It has argued that small carriers tend to piggyback on its facilities and wider network.

Such interconnection disputes could lead to disconnection that may cause great inconvenience to the public. For example, in cases of emergency or life or death situations, people would need to successfully make calls to the proper authorities (police, hospital, business, office, etc.). However, due to disconnection, subscribers of one network would find it difficult to communicate to subscribers of another network. Government should therefore address interconnection problems and enforce interconnection rules more effectively.

The bill provides punishment for refusal or failure of any telecommunications entity to comply with interconnection regulations after having been required by lawful written order of the National Telecommunications Commission (NTC). Acts such as willful termination, disconnection, discontinuance, interruption, blocking and/or disruption of interconnection by any public telecommunications entity will be prohibited.

Procedures for interconnection and reconnection and matters to be covered in the interconnection agreement will be provided for. The parameter for interconnection including points of interconnection, quantity of interconnection circuits, underwriting interconnection costs and interconnection costs will be laid out. Criminal penalties for the violation of such will be provided for.

The NTC will have the mandate to monitor interconnection-related complaints by customers. The above mechanisms are important to prevent the economic costs associated with interconnection disputes and to protect telecommunication consumers from inconvenience.

In view of the foregoing, the passage of the bill is earnestly sought.

JOSE C. DE VENECIA, JR.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 277

Introduced by **HONORABLE JOSE C. DE VENECIA, JR.**

AN ACT
STRENGTHENING THE MANDATE ON THE INTERCONNECTION BETWEEN AND AMONG PUBLIC TELECOMMUNICATIONS ENTITIES, PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSE

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. ***Declaration of Policy.*** – Recognizing the vital role of communications and information in nation-building and economic development, the State in its desire to attain universal access, shall promote the rapid expansion of telecommunications services in all areas of the Philippines, maximize the use of all available telecommunications facilities, and ensure that every user of the public telecommunications service shall have access to such facilities at a mandated standard of service and at reasonable cost.

SEC. 2. ***Matters to be Covered by the Interconnection Agreement*** – The interconnection arrangement between the public telecommunications entities shall be non-discriminatory and shall contain, but not limited to, the following matters:

a) scope of agreement;
b) point(s) of interconnection and technical configuration;
c) provision of capacity (interconnection circuits);
d) period to implement
e) technical, performance and quality standards and grade of service, as well as measurement and monitoring thereof;
f) measurement of calls, settlement, and dispute resolution procedure;
g) interconnection charge/compensation scheme;
h) maintenance procedure;
i) fault reporting and clearing procedures;
j) duration and re-negotiation of agreement; and arbitration arrangement as may be directed by NTC.
k) Arbitration agreement as may be directed by the NTC.

The NTC shall within ninety (90) days from the approval of this Act, prepare a *pro forma* Interconnection Agreement covering the above matters and provide guidelines which shall be used as basis for public telecommunications entities in arriving at an agreement to effect a timely, fair and efficient interconnection.

The NTC shall also, within ninety (90) days from the approval of this Act, prescribe revised technical and service performance standards for interconnection and establish a performance monitoring system to ensure compliance therewith.

The NTC shall, upon request of a carrier and within a period of thirty (30) days:

a) Decide a dispute relative to the implementation of the interconnection agreement and of the amounts due from and payable by a party thereunder. Any uncontested amount shall immediately be payable to the parties.
b) In the absence of a carry-over clause, the NTC shall, in case of an impasse between the interconnected carriers, determine and fix the terms and conditions, of the renewal or extension of an interconnection agreement, to include the compensation scheme thereof.

SEC. 3. ***Interconnection Parameters.*** – The following shall be the minimum parameters.

(1) The Parties shall jointly and equally provide and share the costs of interconnection facilities necessary to interconnect the systems of both parties. Provided, That in an interconnection between an Inter Exchange Carrier (IXC) and a Local Exchange Carrier (LEC) with less than five thousand (5,000) total system-wide line capacity and does not offer or provide any other telecom services, except value added service (VAS), the former shall shoulder the costs of interconnection;

(2) The point(s) of interconnection (POI) shall be made at a technically feasible point;

(3) The quantity of Interconnection Circuits shall be based on Traffic Studies or interconnecting parties. In case of disagreement, the NTC shall, within a period of thirty (30) days from the request of either party, decide on the quantity of interconnection circuits;

(4) The underwriting of interconnection costs as may be determined by the NTC; and

(5) The determination of Interconnection Charges by the NTC in compliance with law.

SEC. 4. ***Interconnection Procedure*** – The following shall be strictly observed to ensure interconnection between or among the parties:

a. Parties shall negotiate and enter into an interconnection agreement within a non-extendible period of sixty (60) days commencing from notice to NTC of the initiation of negotiation for interconnection. During the sixty (60) day period, upon the request of any of the parties negotiating for interconnection; The NTC shall intervene and take an active role to facilitate and expedite interconnection; The NTC may, in the interest of the State, motu propio intervene in the negotiation or direct parties, as may be appropriate, to submit to compulsory arbitration at party cost after the lapse of thirty (30) days from the start of negotiations. The arbitration shall be terminated and decided upon within a period of 30 days;

b. Despite absence of notice to it by any party to a proposed interconnection, the NTC in the exercise of police power, may initiate on its own, the interconnection of two or more telecommunications carriers if the public interest will be served thereby: *Provided*, That and such interconnection must be arrived at within a sixty (60) day period from the commencement of NTC's action.

c. Should the parties fail to enter into an interconnection agreement after the lapse of sixty (60) day period, the NTC shall, within thirty (30) days, determine and fix the equitable terms and conditions for interconnection and draw up the Interconnection Agreement and direct and direct the parties, under pain of sanctions prescribed hereunder, to strictly comply therewith.

SEC. 5. ***Prohibited Acts or Omissions*** – The following shall be considered prohibited acts or omissions:

a. Refusal or neglect of any public telecommunications entity to interconnect, after having been so directed by written order of the NTC within the period fixed, and, under such terms and conditions as expressly set forth;

b. Willful disruption or termination of interconnection by any public telecommunications entity, except for any of the reasons state in Sec. 4 hereof, or for any other lawful cause;

c. Refusal or neglect of any public telecommunications entity, after having been required by written order of the NTC, to re-establish/resume interconnection within a period of five (5) days from receipt of the NTC order; and

d. Refusal or neglect of any public telecommunications entity, after having been required by written order of the NTC, to comply with any of the technical and service performance standards set by the NTC or with any of the terms and conditions of the interconnection agreement entered into by the parties, within a period of five (5) days from receipt of the NTC order.

SEC. 6. ***Grounds for the Disruption or Termination of Interconnection*** – The following shall be the grounds for the disruption or termination of interconnection:

a) Notwithstanding a receipt of a written notice or demand to cure or remedy a breach to pay an undisputed amount due, and / or desist or cease from committing such activities or violations of interconnection, as the case may be, within a period of thirty (30) days from receipt, of such notice or demand, a public telecommunications entity may, upon prior-hearing and approval by the NTC, terminate, or disrupt any interconnection when the other public telecommunications entity:

(i) is not duly licensed, or has lost its certificate, license, or authorization by revocation, cancellation or suspension of its right to operate as a public telecommunications entity; or
(ii) has committed material breach of the terms and conditions of the interconnection agreement between the parties; or
(iii) is in default of any amount due and payable under the Interconnection Agreement subject further to Sec. 6; or
(iv) is using or allowing the use of interconnection facilities for uncompensated toll bypass through the use of schemes such as, but not limited to, callback,

unauthorized audiotex, international simple resale (ISR), and other analogous services or any alternative calling procedures (ACP) which are prohibited in the Philippines; or

(v) has violated the rules and regulations of the NTC.

The NTC shall, within 30 days resolve any of the above issues.

b) Where it is necessary for a public telecommunications entity to maintain, repair, upgrade or expand any of its interconnection facilities or network: *Provided That*, prior written notice of the planned maintenance, repair, upgrade or expansion activity is served on the NTC, and other public telecommunications entities that may be affected thereby. Fifteen days prior to any expansion or upgrades, the NTC shall be notified and notice to the public shall be effected by publication.

c) By reason of force majeure, being the proximate and only cause of failure to maintain the existing interconnection relationship between the parties, such as any of the following circumstances:

(i) earthquake, lightning or other natural disaster or calamity;
(ii) act of public enemy in war, whether international or civil; and
(iii) order or act of competent public authority for reason of national security.

SEC. 7. ***Reconnection Procedure*** – The following shall be strictly observed to ensure interconnection of all times, between or among parties:

a) The NTC shall, within five (5) days from receipt of notice form a public telecommunications entity whose services were arbitrarily disrupted or terminated by another public telecommunications entity, order the parties to reestablish/resume interconnection services within five (5) days from receipt of said order.
b) During the five (5) day period, in the public interest an in the exercise of police power, the NTC may at any time, intervene at any stage of the negotiation and take an active role therein to ensure, facilitate and expedite resumption of interconnection;
c) The NTC shall, in the exercise of police power and in the interest of public welfare, despite the absence of notice from any telecommunications entity whose services were disrupted or terminated by another telecommunications entity, order the parties to reestablish / resume interconnection within a period of five (5) days from receipt of said order.
d) Within five (5) days after issuing the order adverted to in the preceding paragraphs directing the reestablishment / resumption of the interconnection, the NTC shall commence an investigation to find out the cause of the disruption or termination and, within a period of thirty (30) days, issue its resolution imposing appropriate penalties and fines on the erring party.

SEC. 8. ***Criminal Penalties*** – (1) The President or Chief Executive Officer and the Board of Directors of the public telecommunications entity who fail to comply with the written order of the NTC directing the interconnection or reconnection shall be liable for imprisonment of not less than one (1) year but not more than two (2) years.

(2) The President or Chief Executive Officer and the Board of Directors of a public telecommunications entity who shall illegally disrupt or, terminate its existing interconnection with another public telecommunications entity, as may be determined by the Commission after due

(2) The President or Chief Executive Officer and the Board of Directors of a public telecommunications entity who shall illegally disrupt or, terminate its existing interconnection with another public telecommunications entity, as may be determined by the Commission after due notice and hearing, shall be liable for imprisonment of not less than six (6) months but not more than one (1) year.

SEC. 9. ***Administrative Penalties*** –

(1) The following fines shall be imposed by the NTC on any public telecommunications entity and its President or Chief Executive Officer for willful and deliberate failure to interconnect or reestablish / resume interconnection within the period stated in the order of the NTC:

a) From one (1) to ten (10) days after the lapse of the period to comply as stated in the NTC order, a fine of five hundred thousand pesos (P500,000.00) per day shall be imposed;

b) From eleven (11) to twenty (20) days after the lapse of the period to comply as stated in the NTC order, a fine of two million five hundred thousand pesos (200,000,000.00) per day shall be imposed; and

c) From the twenty-first day onward after the lapse of the period to comply as stated in the NTC order, a fine of five million pesos (P5,000,000.00) per day shall be imposed.

(2) The following administrative penalties shall be imposed by the NTC after a determination that a public telecommunications entity has willfully, deliberately and unjustifiably disrupted or terminated its interconnection with another public telecommunications entity:

a) A fine of not less than five million pesos (P5,000,000.00) but not exceeding fifteen million pesos (P15,000,000.00) and
b) Disqualification of the Chief Executive Officer of the violating public telecommunications entity from being employed thereat and in any other entity under the supervision or regulation of the NTC.

(3) Administrative Penalties for Failure to Comply with Interconnection Technical, Service Performance Standards – The following fines shall be imposed by the NTC on any public telecommunications entity for deliberate and willful failure to comply with an order of the NTC requiring compliance with any interconnection such as the technical, service performance, standard prescribed by the NTC and/ or those agreed upon under the parties interconnection agreement:

a) From one (1) to ten (10) days after the lapse of the period to comply as stated in the NTC order, a fine of two hundred thousand pesos (P200,000.00) per day shall be imposed;

b) From eleven (11) to twenty (20) days after the lapse of the period to comply as stated in the NTC order, a fine of five hundred thousand pesos (P500,000.00) per day shall be imposed; and

(4) Compensation Payable to Aggrieved Public Telecommunications Entity – The erring public telecommunications entity shall also pay the aggrieved public telecommunications entity compensation in the amount of not less than one million pesos (P1,000,000.00) but not exceeding ten million pesos (P10,000,000.00) to be determined upon application with the appropriate court to cover losses and damages incurred by the latter for reason of the unjustified disruption or termination, of the interconnection.

(5) Collection of fine or Payment of Compensation – the amount of the fine imposed by the NTC shall be paid by the erring public telecommunications entity to the NTC within fifteen (15) days from receipt of the NTC order. In case the erring public telecommunications entity moves for a reconsideration of the order imposing such fine or brings the matter on appeal to the Court of Appeals or the Supreme Court, the payment of the line shall be a condition for the perfection of the motion or appeal but the payment shall be deposited in escrow with the NTC until the final adjudication of the case.

SEC. 10. ***Prohibition Against the Issuance of Restraining Orders and Injunctions Against NTC Decisions and / or Orders*** – The decision of the NTC on interconnection and on matters pertaining to Section 8 & 9 of this Act shall be immediately executory. No court, other than the Court of Appeals and the Supreme Court of the Philippines, shall have jurisdiction to issue a temporary restraining order, preliminary injunction, or preliminary mandatory injunction against the implementation of interconnection of networks pursuant to the provision of this Act.

SEC. 11. ***Implementing Rules and Regulations*** – Within ninety (90) days from the effectivity of this Act, the NTC shall promulgate rules and regulations for the effective and proper implementation of this Act. The NTC shall be the administrator of this Act and for this purpose, shall establish a performance monitoring system.

SEC. 12. ***Separability Clause*** – Any provision of this Act which shall be declared unconstitutional shall not render any other provision of this Act invalid.

SEC. 13. ***Repealing Clause*** – Any provision of law, executive order, rule or regulation or circular inconsistent with the provision of this Act is hereby modified or repealed accordingly.

SEC. 14. ***Effectivity*** – This Act shall take effect upon approval.

Approved,