

REFERENCE NO:4/7/06/3

**IN THE MATTER OF AN ARBITRATION
TELECOMMUNICATIONS AUTHORITY OF TRINIDAD AND TOBAGO
SECTION 82 OF THE TELECOMMUNICATIONS ACT 2001**

BETWEEN

DIGICEL (TRINIDAD & TOBAGO) LIMITED (Digicel)
Complainant

AND

**TELECOMMUNICATIONS SERVICES
OF TRINIDAD AND TOBAGO LIMITED (TSTT)**
Respondent

RULING ON PRICING

In my Ruling dated 14th March 2008, I directed that a Final List of Equipment be submitted to a technically competent professional to analyse and verify, for my assistance, the invoices and other documents contained in the Confidential Bundle of Documents submitted on behalf of the Respondent, TSTT.

By contract dated April 14, 2008, Mr. Stephen Redgate, Consultant was retained by the Telecommunications Authority of Trinidad and Tobago ("the Authority") to assist me and to prepare a Report containing the following:

- i. An analysis and verification of the reasonableness of the prices of the items contained in the Final List of Equipment with reference to Nortel's Budgetary Proposal, the relevant invoices and other documents contained in the bundle of confidential documents submitted by TSTT for the attention of the Arbitrator; and
- ii. An opinion, if possible, as to when TSTT ought to have reasonably refunded to Digicel the sum of US \$120,361.33, which was identified as being refundable to Digicel on completion of a reconciliation exercise conducted by Nortel.

To assist Mr. Redgate, the following documents were submitted to him:

- (i) The Arbitrator's Ruling dated July 16, 2007;~
- (ii) The Report by Mr. Satwant Singh, Consultant on the Physical Audit of Equipment Acquired by TSTT for the Purpose of Interconnection with Digicel dated September 18, 2007 and the Agreed List attached thereto;
- (iii) The Arbitrator's Ruling dated March 14, 2008;
- (iv) The Final List of Equipment annexed as Appendix II to the Ruling referred to in (iii) above;
- (v) The Confidential Bundle of Documents submitted by TSTT on March 16, 2007.

Mr. Redgate was also requested to pay particular attention to the notations made by Mr. Satwant Singh on the Agreed List as to the lower quantities of equipment used by TSTT for Digicel specifically to determine how such reductions would affect the prices of the relevant items.

On June 10, 2008, I received the Report of Mr. Redgate on the pricing provided by Nortel for the equipment purchased by TSTT for the purpose of interconnection with Digicel. A copy of his Report is attached as Appendix I.

However, shortly thereafter, by letter dated 16th June 2008, the Authority was advised by Digicel that Digicel and TSTT had reached an agreement with respect to several matters. In mid-July, at my request, clarification was sought from the Attorneys for Digicel and TSTT as to whether there were any outstanding issues that required my attention and, if so, to identify those issues. By letter dated July 17, 2008 Digicel had responded to the Authority indicating that the parties had agreed that TSTT had waived in full any cost entitlements arising pursuant to any costs order made or which may be made in Complaint No. 3 –TATT Arbitration Process 4/7/06/03 (“the Equipment Dispute”) and Digicel had waived its claim for interest on the sum of US\$120,136.33 refunded to it by

TSTT. I was advised that the following issues remained outstanding to be determined by me in the light of the input of Mr. Redgate:

1. What, if any, part of the sum of US\$1,494,091.00 paid by Digicel to TSTT on November 8, 2005 is Digicel entitled to have reimbursed?
2. Is Digicel entitled to interest on such sum (save for the sum of US\$120,136.33 refunded by TSTT in respect of which Digicel has agreed to waive its claim to interest) and, if so, at what rate and for what period?
3. What, if any, information is Digicel entitled to receive as to the quantities of equipment purchased by TSTT?

A copy of Digicel's letter is attached as Appendix II.

Mr. Redgate's Report

Mr. Redgate's Report is attached hereto and marked Appendix I. In his Report, Mr. Redgate has expressed the following opinions:

"Verification:

After receiving and reviewing all the available Invoices and Job Change Requests I find that the overall pricing applied by Nortel was consistent with good business practice.

In my opinion and based my knowledge and understanding of Nortel's pricing policies there is an average margin across the project of approx 45%. This is a reasonable margin and is considered to be consistent with the market norm for equipment providers.

After reviewing the detailed breakdown of all equipment and support costs it is my opinion that all charges applied by Nortel are within normal market expectations for 2005/2006.

Statement of findings:

It has now been possible with the additional information supplied to provide a detailed breakdown of the complete reasonableness of the overall pricing.

The requested detailed breakdown of the Invoices has been sent by the supplier Nortel and I have used these, existing knowledge and estimation of the costs for 2005/2006 to assess the overall pricing and reasonableness of costs.

I have reviewed the provided information and spreadsheets that list in detail the equipment observed and verified by the previous expert and have attempted to reconcile them with the invoices for equipment as provided by Nortel.

Once the detailed invoice information requested was provided and the existing Invoices were cross-checked it was possible to reach an informed conclusion as to the reasonableness of the overall project costs and be able to offer an opinion based on previous experience, professional judgement and some known costs.

It is Nortel's normal policy to provide bundled pricing for equipment based on capacity requirements not on specific equipment count. Some equipment supports a higher capacity than is required based on the presented traffic figures but is only manufactured to the higher capacity specification. Nortel's proposal to TSTT appears have been calculated using this method. Therefore to estimate the correctness of the Nortel offer I accept their own expertise in not over-sizing their initial proposal and subsequent changes as are normal in any project.

Based on my knowledge of the Nortel pricing policy and the costs associated with the delivery and installation of the equipment ordered I find that the charges applied by Nortel show acceptable overall margins consistent with good business practice and accepted market standards. Nortel's assessment of the

cost disbursement of the project also appears to have taken into account the capacity requirements of Digicel on the overall project and also all Job Change Orders issued during the project.

The only inconsistency I have found is with the Invoice CS233413 and CS233248. On all other invoices Nortel have applied a discount level of 25%. If these invoices were within the scope of the original order and had this discount been applied to these Invoices it should have resulted in an additional refund in the amount of \$85666.55."

Based on the advice contained in Mr. Redgate's Report, which I accept, it appears to me that in large measure, the cost of the equipment contained in the Final List of Equipment (annexed to my Ruling dated 14th March 2008 as Appendix II) as charged by Nortel to TSTT and as paid for by Digicel, was reasonable. Accordingly, Mr. Redgate's advice to me is that, save for the amounts stated in Invoices CS233413 and CS 233248, Digicel is not entitled to any further refund of the monies paid by it to TSTT in November 2005 (apart from the sum of US\$120,361.33 already refunded to Digicel by TSTT.)

Is Digicel entitled to the benefit of a discount?

In respect of Invoices CS233413 and CS233248, Mr. Redgate expressed the opinion that, if these invoices were within the scope of the original order, a discount of 25% ought to have been applied by Nortel and that would have resulted in a reduction in the price in the amount of \$85,666.55. Such a reduction would mean that Digicel is entitled to a further refund of **\$85,666.55**.

I have reviewed the bundle of Confidential Documents and it appears to me that these invoices related to the following:

- (1) Nortel Invoice No. CS233413 dated 25th August 2006 covered
"BILLING OF IRM EQUIPMENT THAT WAS INCORRECTLY SHIPPED AS NON-BILLABLE, PRICING IN ACCORDANCE WITH TSTT PURCHASE ORDER 3401 & 3415 AND THE TERMS

AND CONDITIONS OF AGREEMENT TRI-050646-00 SIGNED BETWEEN TSTT AND NORTEL NETWORKS.” The net amount due on this invoice is stated as US\$99,273.00;

(2) Nortel Invoice No. CS233428 dated 25th August 2006 covered **“BILLING OF PP PVG EQUIPMENT AND LICENSE SHIPPED BUT NOT BILLED PER PRICING WITH TSTT PURCHASE ORDER 3401 & 3415 AND THE TERMS AND CONDITIONS OF AGREEMENT TRI-050646-00 SIGNED BETWEEN TSTT AND NORTEL NETWORKS.”** The net amount due on this invoice is stated as US\$243,393.20.

The first point I wish to make in relation to these invoices is that Mr. Redgate does not in his Report dispute the entitlement of Nortel to issue these invoices to TSTT for the reasons stated therein. The only issue raised by him relates to whether Nortel should have applied a discount of 25% to these invoices which would have resulted in a reduction in the amount payable by TSTT to Nortel and consequently by Digicel to TSTT.

Clarification

As a result of this “inconsistency” raised by Mr. Redgate, I requested the Authority to seek clarification from TSTT on this point. On September 9, 2008, a letter was dispatched to TSTT’s Attorneys, M.G. Daly & Partners **“seeking clarification as to whether a discount had been applied to these two invoices and, if not, an explanation (together with any supporting documentation) as to why a discount was not applied.”** A copy of this letter is annexed hereto as Appendix III.

By letter dated September 25, 2008, TSTT’s Attorneys responded to my request for clarification and a copy of their letter is annexed as Appendix IV. According to the Attorneys, the word “discount” is a misnomer because **“the arrangements which TSTT had with Nortel for payment for the interconnect specific equipment was such that TSTT was required to make a 75% payment in advance and the 25% balance was to be paid after all the equipment had been received by TSTT in good order”**.

I have carefully scrutinised the invoices in the Confidential Bundle and I have observed that the language used on each of the invoices for equipment is in fact, "**LESS 25% DEFERRED DISCOUNT**". I have also scrutinised Invoice No. CS234295 dated 22nd September 2006 for US\$327,919.63 which expressly states that "**THIS INVOICE COVERS 25% DEFERRED IN ACCORDANCE WITH TSTT PURCHASE ORDER 3400 AND THE TERMS AND CONDITIONS OF AGREEMENT TRI-050646-00 SIGNED BETWEEN TSTT AND NORTEL NETWORKS**". I have also double-checked the Reconciliation prepared by TSTT with respect to this amount of \$327,919.63 and I am satisfied that TSTT did not in fact enjoy a discount on the invoices from Nortel. Instead, it is clear that TSTT was granted a facility by Nortel to pay 75% initially and to pay 25% at a later date and on that basis Nortel subsequently issued its Invoice No. CS234295 for US\$327,919.63. I have also observed that Mr. Redgate in his Report referred to this Invoice for the Deferred Payment but made no comment thereon. Therefore, I can only conclude that without the benefit of the explanation given to me by TSTT, Mr. Redgate did not appreciate that Nortel had not granted a discount to TSTT but rather a deferral of the obligation to pay 25% of each invoice which was eventually billed for in September 2006.

The Ruling

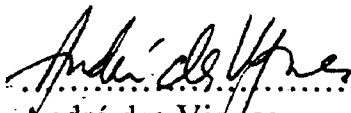
Accordingly, having regard to the evidence that Nortel submitted an invoice to TSTT in September 2006 for the aggregate of the deferred amounts stated in the several invoices (dated between December 2005 and March 2006), I am of the opinion that there was in fact no further discount which should have been applied by Nortel to Invoice Nos. CS233413 and CS233428. I also accept the explanations given by TSTT's Attorneys that "there was no need to defer any portion of the payment since these invoices were sent after the equipment was shipped from Nortel to TSTT." I also accept that even if the deferred discount had been applied, TSTT would still have been liable to pay to Nortel the balance of 25%.

Accordingly, since this was the only issue raised by Mr. Redgate with regard to the prices shown of the several invoices and there has been a satisfactory explanation given by

TSTT as to why the deferred discount was not applied to these invoices, I accept the expert advice given by Mr. Redgate and find that the prices charged by Nortel for the equipment described in the Final List of Equipment showed "acceptable overall margins consistent with good business practice and accepted market standards." Therefore, the amounts charged by TSTT to Digicel for the equipment were reasonable and Digicel is not entitled to any further refund of monies from TSTT or any interest thereon.

With respect to the third issue raised by Digicel as to any information that it might be entitled to receive as to the quantities of equipment purchased by TSTT, I am of the opinion that this issue has already been addressed by the audit exercise performed by Mr. Satwant Singh, at the request of Digicel. That audit exercise resulted in the Post Audit Report referred to in my Ruling dated 14th March 2008 and in the identification of the Final List of Equipment. That Final List of Equipment identified the equipment verified by Mr Singh and it was this List that was submitted to Mr. Redgate for his verification and analysis of the cost of such equipment. Accordingly, I am satisfied that Digicel has already received the relevant information as to the quantities of equipment purchased by TSTT and that I do not need to give any further direction or ruling in this regard.

Dated the 31st day of March 2009


.....
André des Vignes
Arbitrator

APPENDIX I

Report by Stephen Redgate, Consultant delivered to the Authority on June 10, 2008

Report on the pricing provided by NORTEL for the interconnection of the DIGICEL network to that of the TSTT

Objective:

Based on the information available determine the reasonableness of the prices charged by Nortel for the equipment provided for Interconnection.

If possible provide an opinion on when the \$120,361.33 refund should have been made by TSTT to Digicel.

Analysis:

I have reviewed each of the invoices submitted by Nortel for the equipment supplied.

1. **CS222491** Optera Metro 3500 equipment Consisting of Optera Metro Telephonic Apparatus.

Value \$52,614.18 less discount of 25% = \$39,460.63.

I have now reviewed the list of the overall equipment that was eventually provided. Based on previous Nortel projects of a similar complexity this is a competitive price consistent with the market norm for 2005/2006 prices.

My estimate of Nortel margin is 45%. Based on sample pricing.

2. **CS223295** Broadband STP equipment. Consisting of Printed Circuit Assembly for Telephonic equipment.

Value \$51,858.03 less discount of 25% = \$39,108.00

I have now reviewed the list of the overall equipment That was eventually provided. Based on previous Nortel projects of a similar complexity this is a competitive price consistent with the market norm for 2005/2006 prices.

My estimate of Nortel margin is 40%. Based on Sample pricing.

3. **CS223296** Broadband STP equipment. Consisting of Printed Circuit Assembly for Telephonic equipment.

Value \$51,858.03 less discount of 25% = \$39,108.00

I have now reviewed the list of the overall equipment that was eventually provided. Based on previous Nortel projects of a similar complexity this is a competitive price consistent with the market norm for 2005/2006 prices.

My estimate of Nortel margin is 40%.

4. **CS223346** Optera Metro Telephonic Equipment. Consisting of Optera Metro Telephonic Apparatus.

Value \$51858.03 less discount of 25% = 39108.00

I have now reviewed the list of the overall equipment that was eventually provided. Based on previous Nortel projects of a similar complexity this is a competitive price consistent with the market norm for 2005/2006 prices.

My estimate of Nortel margin is 45%.

5. **CS223612** Gateway Controller and Media Gateway Equipment. Consisting Succession Media Gateway Telephonic Apparatus.

Value \$ 860537.70 less discount 25% = \$649590.00

I have now reviewed the list of the overall equipment provided and this was eventually provided. Based on previous Nortel projects of a similar complexity this is a competitive price consistent with the market norm for 2005/2006 prices.

Nortel pricing for Gateway controllers is based on H/W and S/W with the majority of the profit from the S/W; this is why with reductions in the S/W license requirements there was a reduction of price and this resulted in the issue of **JCO 26734**.

The overall Margin would have been higher with this product, in the region of 65%. For S/W biased sales this is within the market norm.

6. **CS223681** OC12 Cards for Telecommunications Equipment. Consisting PCCPCR (Printed Circuit Assembly, Circuit Pack Controller)

Value \$183605.89 less discount 25% = \$138726.00

7. **CS223997** Optical Distribution Frame

Consisting E-501-L93 Universal Frame Cable Management. FDF, 11.5'

Connector Module Telephonic Transmission
E-501-L143 Inter-bay Strg F/11.5' Bay
UEGP-115PW End Guard 12"X11.5'PW
Rear Fibre Storage Panel, Telephonic Transmission
Cable Clamp Kit, for IFC and Outside Plant Cable, 0.4 -1.2
IFC- 7/0A085 Fibre Riser Cable, 12SM SC Pre-terminated 85M
Value \$16237.97 less discount 25% = 14313.34

For the installation of a DDF this equipment is all that would be required and the price is consistent with other Nortel projects.

My estimation is that there is a minimum margin of 25% on this equipment.

8. **CS223470** Optera Metro 3500 Equipment Consisting Various Installation Equipment
Value \$23134.37 less discount 25% = \$22191.38

There is a list of all miscellaneous equipment required for the installation and I cannot comment on this. It would be an accepted requirement for this to be used for this project.

9. **CS226257** Digital Signalling Level 1 Mapper Consisting Printed Circuit Assembly Telephonic Transmission
Value \$998.57 less discount 25% = \$832.27

This equipment is required and is priced at normal market levels based on previous Nortel projects.

10 **CS226263** Digital Signalling Level 1 Mapper Consisting Printed Circuit Assembly Telephonic Transmission
Value \$998.57 less discount 25% = \$832.27

This equipment is required and is priced at normal market levels based on previous Nortel projects.

11 **CS 233413 & CS233248** Invoices for un-billed shipped equipment
Value \$ 99,273.00
Value \$243,393.20

Nortel to comment:- See statement of findings, final paragraph, page 6.

12 **CS228030** Project Management Services
Value \$44,984 No Discount.

13 **CS228033** Installation Services
Value \$134,571.32 No Discount

Nortel's engineering costs are based on man days and are regional specific.
Therefore these would have been discussed and agreed with TSTT at the contract discussion stage.

14 **CS228034** Network Integration Services.
Value \$49,866.67 No Discount

Nortel's engineering costs are based on man days and are regional specific.
Therefore these would have been discussed and agreed with TSTT at the contract discussion stage.

15 **CS228029** Installation services
Value \$149,562.36 No Discount

Nortel's engineering costs are based on man days and are regional specific.
Therefore these would have been discussed and agreed with TSTT at the contract discussion stage.

16 **CS234295** 25% Deferred Payment
Value \$327,919.63

17 **JCO 24309** DS1/VT Mapper (2)
Value \$2,219.40 No Discount

18 **JCO 26734** Licenses for CS2000 DSO & DDU Shipping
Cost reduction Value \$119,471.00

Verification:

After receiving and reviewing all the available Invoices and Job Change Requests I find that the overall pricing applied by Nortel was consistent with good business practice.

In my opinion and based my knowledge and understanding of Nortel's pricing policies there is an average margin across the project of approx 45%. This is a reasonable margin and is considered to be consistent with the market norm for equipment providers.

After reviewing the detailed breakdown of all equipment and support costs it is my opinion that all charges applied by Nortel are within normal market expectations for 2005/2006.

Statement of findings:

It has now been possible with the additional information supplied to provide a detailed breakdown of the complete reasonableness of the overall pricing. The requested detailed breakdown of the Invoices has been sent by the supplier Nortel and I have used these, existing knowledge and estimation of the costs for 2005/2006 to assess the overall pricing and reasonableness of costs.

I have reviewed the provided information and spreadsheets that list in detail the equipment observed and verified by the previous expert and have attempted to reconcile them with the invoices for equipment as provided by Nortel.

Once the detailed invoice information requested was provided and the existing Invoices were cross-checked it was possible to reach an informed conclusion to the reasonableness of the overall project costs and be able to offer an opinion based on previous experience, professional judgement and some known costs.

It is Nortel's normal policy to provide bundled pricing for equipment based on capacity requirements not on specific equipment count. Some equipment supports a higher capacity than is required based on the presented traffic figures but is only manufactured to the higher capacity specification. Nortel's proposal to TSTT appears have been calculated using this method. Therefore to estimate the correctness of the Nortel offer I accept their own expertise in not over-sizing their initial proposal and subsequent changes as are normal in any project.

Based on my knowledge of the Nortel pricing policy and the costs associated with the delivery and installation of the equipment ordered I find that the charges applied by Nortel show acceptable overall margins consistent with good business practice and accepted market standards. Nortel's assessment of the cost disbursement of the project also appears to have taken into account the capacity requirements of Digicel on the overall project and also all Job Change Orders issued during the project.

The only inconsistency I have found is with the Invoice **CS233413** and **CS233248**. On all other invoices Nortel have applied a discount level of 25%.

If these invoices were within the scope of the original order and had this discount been applied to these Invoices it should have resulted in an additional refund in the amount of **\$85666.55**.

Opinion on refund payment date:

A refund of the \$120,361.33 should only have been made after final acceptance of the installed equipment; at this time all existing project costs would have been known and all additional costs associated with the project should have been able to have been calculated.

Therefore in my professional opinion the refund date should have been no later than two months from the signing of Final Acceptance Document.

APPENDIX II

Letter by Digicel dated July 17, 2008

Digicel

The Bigger, Better Network.

Digicel (Trinidad & Tobago) Limited,
Ansa Centro, 11C Maraval Road,
Port of Spain, Trinidad, W.I.
Tel: 1 868 628 7000 Fax: 1 868 622 9540
Website: www.digiceltt.com

17th July 2008

Secretary to the Panel
Telecommunications Authority of Trinidad and Tobago
Ben Court
76 Boundary Road
San Juan

Attention: Ms. Corinne Philip

Dear Sirs,

Re: TATT 4/7/06/03 – Reimbursement of Funds
Digicel (Trinidad & Tobago) Limited v Telecommunications Services of Trinidad and Tobago Limited

Thank you for your inquiry

1. As to whether there are any outstanding issues that require the Arbitrator's attention; and if so,
2. To identify what exactly are these issues.

Insofar as this matter is concerned, the following has been agreed between the parties:

1. TSTT has waived in full any cost entitlements arising pursuant to any costs orders made, or which may be made, in Complaint No. 3 - TATT Arbitration Process 4/7/06/03 (the "Equipment Dispute");
2. Digicel has waived its claim for interest on the sum of US\$120,136.33 as refunded to it by TSTT.

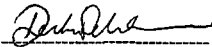
Accordingly, the following issues in the Terms of Reference remain outstanding to date, to be determined in the light of the input from the technically competent professional as contemplated by the Arbitrator in his ruling of March 14th 2008, specifically:

1. What, if any, part of the sum of US\$1,494,091.00 paid by Digicel to TSTT on November 8th 2005 is Digicel entitled to have reimbursed?

Board of Directors: Denis O'Brien, Leslie Buckley, Lucy Gaffney, Colm Delves, M. Anthony Fifi, Geoffrey E. Leid, Paul Mouttel, Niell Dorrian, Sandra Welch-Farroll

-
2. Is Digicel entitled to interest on such sum (save for the sum of US\$120,136.33 refunded by TSTT in respect of which Digicel has agreed to waive its claim to interest) and, if so, at what rate and for what period?
 3. What, if any, information is Digicel entitled to receive as to the quantities of equipment purchased by TSTT?

Yours sincerely



Desha Selochan
Head of Legal and Regulatory
Digicel (Trinidad & Tobago) Limited

APPENDIX III

Letter by the Authority to TSTT dated September 9, 2008



Telecommunications Authority of Trinidad and Tobago

#5, Eighth Avenue Extension, off Twelfth Street, Barataria
Republic of Trinidad & Tobago

Telephone: (868) 675-8288; Website: www.tatt.org.tt
Fax: (868) 674-1055; E-mail: info@tatt.org.tt

Ref. No. TATT 4/7/06/3

September 9, 2008

M. G. Daly & Partners
115A Abercromby Street
Port of Spain

Attn: Ms. Sashi Indarsingh

Dear Sirs,

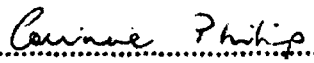
Re: TATT 4/7/06/3- Inquiry as to Invoice Nos. CS233413 and CS233428

Mr. Stephen Redgate, technical expert appointed to assist the Arbitrator in the process of analysis and verification of the invoices tendered by TSTT, has completed his report. At present, this Report is under review by the Arbitrator who now seeks clarification on one of the matters raised by Mr. Redgate in his Report, pertaining to the invoices referred to at caption.

In relation to Invoice Nos. CS233413 and CS233428, Mr. Redgate has noted that, unlike the other invoices submitted for his attention, there was no discount reflected in either of these invoices. Therefore, the Arbitrator is seeking clarification as to whether a discount had, been applied to these two invoices and, if not, an explanation (together with any supporting documentation) as to why a discount was not applied.

The Arbitrator acknowledges that TSTT may need to contact Nortel in order to respond to his enquiries but would be grateful to receive a response hereto by Friday 19th September, 2008.

Yours faithfully,


Corinne Philip (Ms.)
Legal Advisor

cc: Mrs. Debra Bharath, M. Hamel Smith & Co.

Directors: Mr. Khalid Hassanali (Chairman); Mr. Cagney Casimire (Deputy Chairman);
Ms. Beverly Beckles; Ms. Gillian Bishop; Dr. Ronald Ramkissoon; Mr. Wayne Nakhid; Mr. Samuel Henry;
Mr. Hayden Newton; Mr. Terrence Pierre.

APPENDIX IV

Letter by TSTT dated September 25, 2008



M.G. DALY & PARTNERS
ATTORNEYS-AT-LAW & NOTARIES PUBLIC

Martin G. Daly, S.C. LL.B. (Hons.)
E. A. Prescott, S.C. LL.B. (Hons.), M.B.A.
Jo-Anne Julian, LL.B. (Hons.), Notary Public
Sharon Clark-Rawley, LL.B. (Hons.)
Vasheist V. Kekaram, LL.B.
Sashi Indarsingh, LL.B. (Hons.)

ASSOCIATES:
Edmund Subryan, LL.B. (Hons.)
Stephen Alexander, LL.B. (Hons.)

September 25, 2008

Secretary to the Panel
Telecommunications Authority of
Trinidad and Tobago
No. 5 Eight Avenue Extension
off Twelfth Street
BARATARIA

Attention: Ms. Corinne Phillip

Dear Madam,

Re: TATT 4/7/06/3 – Inquiry as to Invoices Nos. CS233413 and CS233428

We refer to the above matter and your letter dated September 9, 2008 seeking clarification on why the 2 Nortel invoices mentioned above made no reference to discounts contrary to the general pattern in all the other invoices.

Automatic Global Discount to TSTT

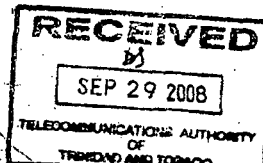
By way of a general introduction we advise that the prices paid by TSTT to Nortel Networks for the purchase of Digicel's and Laqtel's interconnect specific equipment were subject to an automatic global discount for purchases from Nortel.

Depending on the volume of equipment purchased by TSTT a further discount may apply from time to time. For example TSTT benefited from an additional discount when it purchased its NGN network and its CDMA network on account of those purchases having exceeded TT\$100 million.

Discount/Deferred payment

The prices reflected on all the confidential invoices submitted to the Panel without the reference to the portion marked "discount" is reflective of TSTT benefiting from the automatic global discount and was not subject to any further discounts on account of the relatively small size of the purchase.

However the word "discount" appearing on the other invoices with the exception of the two mentioned above is a misnomer since in reality they are not discounts but deferred payments.



ATTORNEYS-AT-LAW & NOTARIES PUBLIC

M.G. DALY & PARTNERS

Re: TATT 4/7/06/3 - Inquiry as to Invoices Nos. CS233413 and CS233428

TSTT's payment arrangement with Nortel for the purchase of equipment

The arrangements which TSTT had with Nortel for payment for the interconnect specific equipment was such that TSTT was required to make a 75% payment in advance and the 25% balance was to be paid after all the equipment had been received by TSTT in good order.

Invoices Numbers CS233413 and CS233428

Having regard to the matters stated above we submit that the "discounts" stated on the other invoices were not in fact discounts but deferred payments and in the case of the two invoices which do not state the words "discount" or "25% deferred payment" we advise that there was no need to defer any portion of the payment since these invoices were sent after the equipment was shipped from Nortel to TSTT and the IRM and PVG equipment listed on these invoices were not included on the original invoices under which they were shipped.

By reason thereof Nortel's invoice was issued after TSTT had received and installed the equipment hence the reason the 75% up front payment and 25% later payment did not arise and TSTT would have been required upon receiving these two invoices to pay the entire 100% due and owing immediately as opposed to payment under the general rule.

We trust that this information is of assistance to you in clarifying this issue of the discount and in the event that the Panel considers it necessary to obtain confirmation or clarification from Nortel on this matter please feel free to contact Mr. Tony Davy, the Director of Account Management at Nortel Networks at tdavy@nortel.com or via telephone numbers 954-858-7103 [overseas work number], 954 - 609-5009 [overseas mobile] 680-5786 [local number when in Trinidad and Tobago].

Yours faithfully,
M.G. Daly & Partners



Sashi Indarsingh
Attorney-at-Law

cc. M. Hamel - Smith & Co. Mrs. Debra Bharath
cc. TSTT
cc. Tony Davy [Nortel Networks]