



For perusal	<i>[Signature]</i>
Secretary	<i>[Signature]</i>
Member/T	
Member/F	<i>[Signature]</i> 18/4/17
Chairman	<i>[Signature]</i>

Thursday, 06 April 2017 *[Signature]* 22/4

[Signature] C/S

To
 The Secretary,
 Telangana Electricity Regulatory Commission,
 # 11-4-660, 4th Floor,
 Singareni Bhavan,
 Red Hills, Hyderabad- 500004.

**TSERC, HYDERABAD
 INWARD**
 17 APR 2017
 No. 395
 Signature *[Signature]*

A.O.
R. Kemp
[Signature] 22/4

Dear Sir,

Sub: Request to consider our application to classify Telecom operations/services as an Industry, for issuing the permission to charge the power tariff under Industrial Power tariff rates across the State of Telangana (both LT and HT as may be applicable). This is also been recognized and approved as an "Industry" by DoT (Department of Telecommunication) and circular issued accordingly -Regarding

1. Reliance Jio Infocomm Limited ("RJIL"), a subsidiary of Reliance Industries Limited ("RIL"), is engaged in the business of providing cellular mobile telephone services under the licences issued by the Government of India including the State of Telangana as per the terms and conditions set out in the said license agreement entered into with the President of India, through the Director Department of Telecommunication and it is private communication provider. It is further submitted that, under the Indian Telegraph Act, 1885 (hereinafter referred to as the "Telegraph Act"), exclusive privilege of establishing, maintaining and working telegraphs within India vests with the Central Government. However, under the first provision to Section 4 of the Telegraph Act, the Central Government is empowered to grant a license on such conditions and in consideration of such payments as it thinks fit to any person to establish, maintain or work a telegraph within any part of India.

MEMBER (F) PESHI
 No : 270
 DATE : 18/4/17

CHAIRMAN PESHI
 No : 267
 DATE : 18/4/17



2. Reliance Jio Infocomm Limited (“RJIL”), has built a world-class all-IP data strong future proof network with latest 4G LTE technology. It is the only network conceived and born as a Mobile Video Network from the ground up and supporting Voice over LTE technology. It is future ready and can be easily upgraded to support even more data, as technologies advance on to 5G, 6G and beyond.
3. In Telangana , the Telecom Service Providers are charged for the electricity consumption at the cell tower under the category LT -11(B) i.e. Non Domestic/Commercial category, though the Switching centres are charged under the category HT- 11 (**Industry** –others).
4. Except for the MSCs, Mobile Towers are categorized as “Commercial Users” and levying Electricity Charges which are applicable on Commercial Establishments. The energy input for these telecom tower sites is availed from Low Tension (LT) supply. And these towers are categorized as Commercial consumer by the state Power Distribution utilities. Being an energy intensive business sector, our business works on reliable supply of electricity across all the cell sites by state Power Distribution utilities.
5. Telecommunication industry in Telangana service area is facing a huge cost impact towards electricity consumption charges for the Mobile Towers/Base Station which is adversely impacting the cost of communication to the public. And the industry is circumventing with stiff competition in the market at national level and the tariff being low in comparison with the international rates, is adversely affecting the investments in general. A typical diagram on VSL’s network and cell tower locations and fibre route in Telangana is enclosed as **Annexure –A** for ready reference.

6. Telecom as an Infrastructure Industry:

In the year 1995, Government of India, pursuant to the new Telegraph Policy decided to allow the private operators to provide basic and cellular telephones and paging services in India with a view to put India on the global telecommunication map. Accordingly the Government issued various circulars to various authorities requiring them to extend all possible help to the private operators, who were granted cellular licences by the Government of India through the Department of Telecommunications. Pursuant to this policy of the Government of India and pursuant to the grant of licence issued as aforesaid and with a view to facilitate the setting up development and growth of this industry, there were various amendments in various statutes to that effect.

7. The Telecom Business in India has been recognized as an “Industry” under various Statute Rules and/or Regulations, Government Notification etc. Emphasis is placed on the recent National Telecom Policy 2012, which specifically refers Telecom Business as the fastest growing industry in Indian Economic History. **Annexure – B.**
8. The Notification issued by the Central Government’s Ministry of Labour and Employment pursuant to section 2 (a) (i) of the Industrial Disputes Act, 1947, specified the Telecom Industry as “**Controlled Industry**” – **Annexure – C.**
9. The Ministry of Corporate Affairs through its Notification dated 7th December, 2011, released the Cost Accounting (**Telecommunication Industry**) Rules, 2011, making it amply clear that Telecom is an industry and certain sets(s) of cost accounting standards shall be applicable over and above any other accounting standards and subject to cost audit. **Annexure – D.**

10. The **Telecommunication Industry** falls under the definition of “**Industry**” under the Industrial Disputes Act. Industry as –“any business, trade, undertaking, manufacture or calling of employers and includes any calling,
11. Service, employment, handicraft or industrial occupation or avocation of workmen (section 2 (j)); it is further submitted that the Essential Services Maintenance Act also considers Telecommunication as an “**Industry**”.
12. Department of Telecommunications (DOT), Ministry of Communications and Information Technology - Government of India has issued Policy/Guidelines, inter alia, reiterating that Cellular Mobile towers forms part of the Infrastructure and has posted the same in its website. The said guidelines was issued in consultation with representatives of State Governments. DoT and industry to form Uniform Guidelines on the critical Infrastructure. The Guidelines are to be applied across India uniformly, which inter alia states that a) all benefits as applicable to Infrastructure industry should be extended to telecom towers which have been given infrastructure status by the Government of India, b) Telecom installations are lifeline installations, which are termed as Critical Infrastructure and essential service. Hence sealing of BTS tower/disconnection of electricity may not be restored without the consent of TERM Cell of DoT, and c) Telecom Infrastructure/installations of towers to be permitted for all locations irrespective of land usage. **Annexure – E**.
13. (a) We Wish to bring to your notice that the Judgment of The Hon’ble Appellate Tribunal for Electricity (Appellate Jurisdiction) 7th November, 2012 in Appeal No. 234,235,211 and 215 of 2012 allowed the appeal by setting aside the order regarding categorisation of Mobile Towers, Micro Wave Towers, Satellite Antennas used for communication activity to HT/LT Commercial Category from HT/LT Industrial category prevailing prior to the date of the impugned order. **Annexure - F**
- 13 (b) Further the Maharashtra Government has classified Telecommunication sector as an Industry and has classified the tariff applicable as LT- V and HT-I (i.e. “**Industry**”). **Annexure - G**

14. Even in Telangana Railway Infrastructure which is equivalent to that of Telecommunication sector is categorized under a separate beneficial class (HT-III) and HT –v).

15. It is pertinent to mention that the Government of India, vide Gazette notification dated April, 01-2013, categorized the Telecommunication & Telecom Services as Infrastructure of communication, **Annexure – H** Gazette dated 01-04-2013).

16. The mobile Towers Units:

It is submitted that the License issued by the Government of India, grant us the license to establish, maintain and operate Cellular Services up to the subscribers terminal connection in the local area served by them i.e. Telangana Telecom Circle. Wherein it's clear that under the said license for establishing, maintaining and working the telegraph, which comprises of inter alia, various network elements like MSC (Mobile Stations Centre), BTS (Base Transceiver Station), BSC (Base Station Controller) and switching centres are required to erect Cellular Base Stations/Roof tops on the buildings and vacant lands (Government and Private owned properties).

17. It is submitted that, transmission of voice and data communication involves transmission of data of its subscribers from one end to the other. Further to make available this service of transmission of voice from one end to the other we are required to establish a Cellular Mobile Telephone Network. This Telecom Network comprises of a Switching Centre which in simple terms is the heart and soul of the network. These Switching centres carries out various functions which includes call switching, data/information processing. Subscriber's verification etc. These Switching centres in turn is connected to Base Station Controller/cell towers. These Base stations are in turn connected to Base Transceiver Station (BTS). These BSC/BTS are also called Cell Sites.



18. It is submitted that as a result of the liberalization of Telecom Policy. Today India is one of the leading countries in the field of telecommunications. In India the development in the area of telecommunication has hit a rapid tempo. From breaking down of monopolies to bring down in reforms and the entry of private players with various cellular services besides the landline, the telecom journey in India has been a profound leapfrog. Telecommunication is one of the prime support services needed for rapid growth and modernization of various sectors of the economy which is becoming extremely important in recent years because of enormous growth of Information Technology and its significant impact on the rest of the economy. In today's environment, India stands second to none in terms of technology growth.
19. Generally Mobile towers units in Telangana are required to be installed on the terrace of Building with necessary permission/s. The equipment which are placed for the mobile towers to be functional and emit the network signal include Base Transceiver Station for call and data processing receiving signals and transmitting signals through microwave antenna. Microwave equipment for carrying the signals from one mobile towers to other mobile tower, wherein the power supply equipment, battery backup is required.
20. As on date we have installed over 1708 towers spanning across the length and breadth of Telangana and catering to over 4.5 Million customers and still growing. We have over 4 HT connections and over 1708 LT connections, connecting our cell sites, MSC, BSC Switches etc. It is to appraise you that, when Cellular Mobile Services were launched in Telangana the rate per call was over Rs. 18/- per minute and was seen as an up market luxury product. However over the years the mobile tariff rates have dropped significantly and today we (RJIL) are providing free voice services and only charging nominal rates for data services. It is to be noted that the Average Revenue per subscriber has dropped phenomenally over the last couple of years. And it has impacted majorly on the 'EBIDTA' (Earnings before interest, taxes, depreciation and amortization).



21. As per the universal service obligations stipulated by the government of India, the Telecom Operators are required to install cell sites in rural locations despite the low revenue generation. It may also be noted that in spite of the revenue dip as mentioned above, the Telecom Industry has grown leaps and bounds in the rural markets servicing the general public and contributed significantly to the GDP of India/Telangana State.

22. According to the United Nations Conference on Trade and Development (UNCTAD), there is a direct correlation between the growth in mobile tele-density and the growth in GDP per capita in developing countries. Which has a high percentage of rural population. The share of the telecom services in the total GDP has been rising over the past few years.

23. Determination of tariff:

As per section 62 of the Act, different tariff categories shall be determined according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area.

24. It is to appraise you that various cellular towers/telecommunication equipment which are installed across the state of Telangana in various areas such as agriculture, residential and industrial premises/zone cater the same purpose of providing telecom services.

25. Commercial Purpose – Meaning:

We further submit that the commercial category is applicable for commercial activities such as running of restaurants, private offices, fitness clubs, retails stores, financial institutions, supermarkets, auto dealerships, and other establishments with common business interest etc., under any stretch of imagination, telecommunication network cannot be equated with any of the above activities.

26. That the Hon'ble Supreme court of India in Management of the Federation of Indian Chambers of Commerce and Industry Vs Sri R.K. Mittal (1972) 2 S.C.R. 353 held that the commercial activity must be connected with carrying of trade and business generally, in the premises. The Hon'ble court further held that for the purpose of falling under the commercial establishment/premises, the premises should primarily be the commercial premises and secondly the premises should deal in carrying (a) any trade, business or profession, or (b) any work in connection with or incidental or ancillary thereto is carried on.
27. Further, to mention that even the definition of shop cannot be extended to the cell towers. As defined shop means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office a stoic – room, godown, warehouse, or workhouse, or work place, whether in the same premises or otherwise, used in or in connection with such trade or business engagement but does not include a factory or commercial establishment. Therefore, no stretch of imagination equates the telecommunication network towers with that of the commercial activities stated above.
28. We further submit that, we have installed over 1708 cell towers across the length and breadth of Telangana and each cell tower forms an integral part of the entire network architecture.

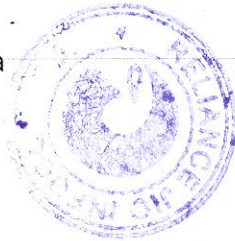
Hence, we humbly request you to consider our above application and classify telecommunication infrastructure deployed by 'RJIL' as an Industry (both LT and HT as may be applicable) irrespective of the zonal location (residential, commercial or industrial) and consider for "Special Industrial Tariff" to the entire telecom infrastructure deployed in the State Telangana

Thanking you,

Warm Regards,

For Reliance Jio Infocomm Limited


Prakash Chandrasekharan
FCNA Head – State of Telangana
Authorized signatory



Annexures as referred above: