



GOVERNMENT OF INDIA
MINISTRY OF ROAD TRANSPORT & HIGHWAYS

Parivahan Bhavan,
1, Sansad Marg
New Delhi-110001

No.RW/NH-33044/27/2005-S&R(R)

Dated: 21st September, 2010

To

1. The Chief Secretaries/Administrator of all State Governments/U.Ts.
2. The Principal Secretaries /Secretaries of all States/U.Ts. Public Works Department dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
3. The Engineers-in-Chief and Chief Engineers of Public Works Departments of States/U.Ts dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
4. The Chairman, National Highways Authority of India (NHAI), G-5&6, Sector-10, Dwarka, New Delhi-110 075.
5. Director General (Border Roads), Seema Sadak Bhawan, Ring Road, New Delhi-110 010.

Subject: Use of NH Land for laying of Utilities including levying of appropriate fees

Sir,

As per the present policy of the Ministry, Public utilities are permitted to be laid along National Highway on the extreme edge of the Right of Way and across the National Highway subject to certain technical requirements being fulfilled and a license deed being signed by the licensee. These utilities were permitted without levying any fees. More recently a provision was made in the policy for securing a performance guarantee @ ₹ 50 per meter from the licensees for satisfactorily laying of OFC cables. The copies of the existing guidelines on the subject are enclosed at Annexure I to this circular.

2. Over the years, the economic environment has changed. Now, as a rule the services are provided by charging the user no matter whether the service provider is a public or private sector entity. Besides, the massive highway development programme undertaken by the Government, casts upon it the responsibility to acquire additional right of way at huge cost to accommodate the highway and other facilities to meet the operational and safety requirements of the highways. Under these circumstances, it has not been found possible to permit any entity the free use of NH right of way for laying utilities, which are almost invariably operated on commercial basis. Accordingly, it has been decided to levy fee on the entities seeking permission for use of National Highway Right of Way (ROW).

3. After careful consideration, it has been decided to charge 10% of the prevailing market value of the area of land required for laying the utilities as one time license fee charged at the time of grant of license and a surcharge of 15% levied every subsequent 3 years. The license shall be granted for a period of 25 years. Area of land required for various utilities shall be calculated as per existing guidelines or as per requirement. The grant of license shall be

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subject to the requirement of the licensed land by the Government for the purpose of development of National Highway. In case such a requirement arises any time during the license period, the Government will revoke the license without in any manner being liable for disruption of services. If additional land acquisition is feasible and not prohibitively costly, the utilities can be permitted to be shifted by the licensee at his own cost, in the additional land so acquired.

4. The provisions of para 3 shall apply uniformly to all entities, public as well as private. In exceptional circumstances, such as utilities required by defence and security establishments, charitable trusts, State run hospitals, etc. the fees can be waived with the specific approval of the Ministry.

5. The fee shall apply prospectively to the existing licensees as well, who will be required to deposit the fees and sign the license deed within 6 months of the date of this circular.

6. The license shall be subject to the fulfillment of the following other conditions:

(i) No licensee shall claim exclusive right on the right of way and any subsequent user will be permitted to use the right of way, either above or below, or by the side of the utilities laid by the first user, subject to technical requirements being fulfilled. Whether the technical requirements are fulfilled or not, shall be decided by Highway Administration/ Government in their sole discretion. In case of any disruption/damage caused to any existing user by the subsequent user, the Government would not be accountable or liable in any manner whatsoever.

(ii) No use of NH ROW will be permitted for any purpose other than that specified in the license deed, eg. for Advertisement towers, Statues, Structures, etc.

(iii) "Highway Administration" notified under Section 3(1) of the National Highways (Land & Traffic) Act, 2002 would be the authorized person to levy and charges fees from the licensee and granting permission for carrying out any of the activities as mentioned in Section 38(1) of the said Act. Market value of the land referred to Para 3 shall be rate notified by the Government every year as an average rate, applicable for granting utilities during the year. The rate applicable for 2010-11 shall be ₹ 250 per sqm for rural areas, ₹ 500 per sqm for municipal areas and ₹ 1000 per sqm for cities having population more than 10 lakhs as per 2001 census. In metropolitan cities such as Delhi, Mumbai, Chennai, Kolkata and large cities such as Bangalore, Hyderabad, Thiruvananthapuram and Pune (and others which may be so declared by the Government), the rate will be ₹ 2,000 per sqm. No licensee shall have the right to question whether the above mentioned average rates correctly reflect the market rate in any particular area.

(iv) Three copies of 'as laid drawings' of utilities (hard and soft copies) shall be submitted to highway authorities for verification and record with in a month of completion of works.

(v) Other conditions as laid down in existing guidelines/Circulars shall be followed by the licensees.

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(vi) The cables/pipelines shall be underground at approved depth. Any structure above ground shall be aesthetically provided for/ landscaped with required safety measures as directed by the Highway Administration.

(vii) The Licensee shall have to provide the safety measures like barricading danger lighting and other necessary caution boards while executing the work.

(viii) Grant of license is subject to the licensee satisfying (a) minimum disruption of traffic and (b) no damage to the highways.

The contents of this Circular may be brought to the notice of all the concerned in your organization. The Highway Administration Rules 2004 will be modified accordingly. This circular will come into effect from the date of notification of the modified Highway Administration Rules.

Encl: As above

Yours faithfully,


(Sunil Kumar)

Superintending Engineer SR&T (Roads)
For Director General (Road Development) & SS

1. All the Technical officers in the Ministry of Road Transport & Highways
2. All ROs and ELOs
3. The Secretary General, Indian Roads Congress
4. The Director, NITHE
5. Technical Circular File of S&R Section
6. NIC - for office intranet

