

F.No. H-39011/16/2012-P&P
भारत सरकार
Government of India
सड़क परिवहन एवं राजमार्ग मंत्रालय
Ministry of Road Transport & Highways

Sansad Marg, 1 Parivahan Bhawan,
New Delhi-110001 Dated 2nd April, 2014

To,

1. The Secretaries, PWD of all States/Union Territories
2. The Chief Engineers of all States/Union Territories
3. Director General (Border Roads), Seema Sadak Bhawan, Ring Road,
New Delhi-110010.
4. Chairman, NHAI

Subject: Guidelines for granting right of way permissions to Telecom Service Licensees/Infrastructure Providers for installing telecom infrastructure along NHs within NH RoW.

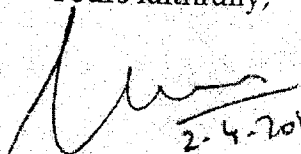
Sir,

In continuation of the letter No. F.W/NH-33044/27/2005/S&R(R) (Pt) dated 6th/7th August, 2013 the Government has now recommended the broad guidelines under which RoW permissions may be granted to licensed telecom operators and registered telecom infrastructure providers for installing and operating telecom infrastructure within National Highways (NHs) land vested in or under the control or management of a local authority or of any other person including public authority, public corporation, autonomous body, State Government or Central Government in their respective licensed service area during the currency of their license. These guidelines under the overall provisions of The Control of National Highways (Land and Traffic) Act, 2002 and Highway Administration Rules, 2004 shall be followed uniformly across the country in supersession of all concerned earlier letters in this regard. A copy of the above guidelines is enclosed as **Annexure-I**. However, for laying of Telecom Cables/Ducts on NH land, the guidelines issued vide letter No. F.W/NH-33044/27/2005/S&R(R) (Pt) dated 6th/7th August, 2013 would continue to remain in effect.

2. Before recommending for such permission, the State PWDs are required to keep in view the requirement of widening to 4/6 lanes of NHs.
3. The Divisional/Executive Engineer of the Highway Authority will keep a register of the record of right of way permission to the licenses who have been permitted access to NH under his jurisdiction.

4. These guidelines shall come into force with immediate effect.

Yours faithfully,


2.4.2014

(Manish Kumar Singh)

Under Secretary to the Government of India

Telephone No. 237140001

Encl: As above.

Copy forwarded for information to:

1. PS to Hon'ble Minister (RT&H)/PS to Hon'ble MOS-TAC (RT&H)/PS to Hon'ble MOS-SS (RT&H)
2. The Secretary, Department of Telecommunications, New Delhi.
3. Director, PMO, New Delhi.
4. All ROs/ELOs
5. All SEs/EEs in the State PWDs
6. Indian Roads Congress
7. Director, IAHE

Copy also for information to PPS to Secretary (RT&H)/PPS to AS&FA, RT&H/PPS to JS (H)/Director (H)

Copy also for information to PPS to DG (RD)&SS/ All ADGs/ All CEs/ All SEs.

**GUIDELINES FOR GRANTING RIGHT OF WAY PERMISSIONS TO TELECOM
SERVICE LICENSEES / INFRASTRUCTURE PROVIDERS FOR INSTALLING
TELECOM INFRASTRUCTURE ALONG NHs WITHIN NH RoW**

The Government has realized the need for creating and supporting robust telecommunication infrastructure maintaining adequate capacity and affordability in order to promote optimum use of Information Technology including Telecommunication across the country in an equitable and sustainable manner. The Department of Telecom (DoT), Ministry of Communications, Government of India has issued the National Telecom Policy 2012 in the recent past which enunciates the need to review and simplify sectoral policy for granting Right of Way (RoW) for installing telecom infrastructure among others.

Keeping the above objectives in view, the following broad guidelines are being recommended by the Ministry of Road Transport & Highways (MoRTH), under which RoW permissions may be granted to licensed telecom operators and registered telecom infrastructure providers for installing and operating telecom infrastructure within National Highways (NH) land vested in or under the control or management of a local authority or of any other person including public authority, public corporation, autonomous body, State Govt. or Central Govt. in their respective licensed service area during the currency of their license.

1. The permission to install Telecom Infrastructure along National Highways within NH RoW shall be granted under the relevant provisions of The Control of National Highways (Land and Traffic) Act, 2002 and subsequent amendments thereof.
2. Any authorized Licensee of DoT/Registered Infrastructure Provider is eligible to seek/avail RoW facility/permission for installing Telecom Infrastructure along NHs within NH RoW. However, enforceability of the permission so granted shall be restricted to the extent of provisions/scope of service contained/defined in the license agreement of that Licensee & for the purpose for which it is granted.
3. Either by content or by intent, the purpose of extending RoW facility within NH land is not to enhance the scope of license of a Licensee and such RoW permissions are only enabling/facilitating in nature.
4. The facility of installing and operating telecom infrastructure on NH RoW, shall be available to all Licensees (irrespective of existing or future) and

registered/licensed infrastructure providers, without discrimination, on payment of a License fee, subject to the condition that this RoW shall be available to Licensees to the extent of provisions contained in their license agreements and the reinstatement charges shall be borne by such Licensees.

5. The License fee for installing Telecom Infrastructure shall be based upon the actual area occupied for the purpose and shall be calculated as per the following formula: License fee for 'N' years =
$$\frac{\text{(Present cost of land forming part of Highway occupied or applied for permission to undertake the proposed work X N)}}{5}$$
6. The present cost of land applicable for the year 2013-14 for calculation of License fee mentioned in para 5 above shall be Rs. 300 per sqm for rural areas, Rs. 600 per sqm for municipal areas and Rs. 1200 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 present cost of land shall be Rs. 2,500 per sqm. These present rates of land shall be applicable for all applications received under these guidelines in the respective Financial Year and, if granted permission to install and operate Telecom Infrastructure, shall remain constant for the License period or 10 years, whichever is lesser. In case License period exceeds 10 years, rates prevailing in the 11th year, which shall be calculated as per the methodology detailed out in these guidelines, shall be used for calculation of License fee. For subsequent years, the rates mentioned above shall be escalated by the Authority using Wholesale Price Index (WPI) published by Government of India, in the following manner:

Illustration:

To arrive at Present cost of land for the year 2014-15 following formula shall be used:

Present cost of land in 2014-15:
$$\text{Present cost of land in 2013-14} \times \left(\frac{\text{WPI for March '15}}{\text{WPI for March '14}} \right)$$

Similar methodology shall be adopted for calculation of present rates of land for all subsequent years.

7. In order to expedite granting of RoW permissions to Licensees for the said purpose in a time-bound manner through an effective approval mechanism, for work involving installation of telecom infrastructure along individual NH projects at 50 locations or less in a single state, the concerned Regional Officer of NHAI/Head of the State Level Project Execution Authority e.g. Chief Engineer

(NH)/Concerned Border Roads Organization officer as applicable shall be the approving authority ('Authority') for the same under whom a Committee to act as a single window to coordinate all activities in this regard may be created with a Nodal Officer being designated for the proposed Committee. However, for work involving installation of telecom infrastructure at more than 50 locations along individual NH projects or NH stretches in two states, Chief Engineer(SR &T) (R) section of MoRTH shall be the Authority for the same under whom a Committee to act as a single window to coordinate all activities in this regard may be created with a Nodal Officer being designated for the proposed Committee

8. The Authority shall facilitate development of Telecom Infrastructure on NHs and shall provide access to existing infrastructure/facilities within NH-RoW like foot over bridge, electric towers, toll plaza, wayside amenities etc., for installation of Telecom Infrastructure. Such permission to install Telecom Infrastructure on foot over bridges, electric towers etc. shall be given after the Authority has carried out the required due diligence and is satisfied that such Telecom Infrastructure installation/operation will have no negative impact on the existing infrastructure facilities.
9. The Telecom licensee/registered Infrastructure provider ("Applicant") shall approach the applicable Authority and submit an application, as per the provisions of The Control of National Highways (Land and Traffic) Act, 2002 and Highway Administration Rules, 2004, detailing out the locations (mentioning the exact latitude and longitude) within the National Highways Right of Way ('NH RoW') where it proposes to install the telecom infrastructure. On receipt of completed application by the Authority, a demand note shall be issued by the Authority to the Applicant within a period of 21 (twenty one) days. The Authority shall provide the RoW permission within fifteen days of receiving payment on demand note. In case no demand note is received within the stipulated time, the application details shall be submitted to the Chief Engineer, MORTH for issue of demand note and obtaining permission for installation of telecom infrastructure.

In case, no written communication in this regard is received by the Applicant from the concerned Authority within thirty days of the date of payment of demand note, deemed approval of the approving authority for grant of permission shall be considered to have been obtained. In such a case of deemed approval, the terms and conditions of the License agreement shall become applicable on the Authority as well as the Applicant.

10. The Authority shall carry out the required due diligence of the proposed locations giving due consideration to availability of RoW, future NH up gradation etc. and shall review, modify and/or approve the final locations for installing the telecom infrastructure.

11. The Authority shall then enter into a License Agreement with the respective Telecom licensee/registered Infrastructure Provider. Post signing of the agreement, the Telecom licensee/registered Infrastructure Provider shall be designated as 'Licensee' for the purpose of this project and will be authorized to install and operate telecom infrastructure within the NH RoW.
12. 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. Decision of the Authority in relation to fulfillment of technical requirements shall be final and binding on all concerned parties. In case any disruption/damage is caused to any existing user by the subsequent user, the Authority shall not be held accountable or liable in any manner.
13. The Licensee shall be responsible for undertaking all activities including, but not limited to site identification, survey, design, engineering, arranging finance, project management, obtaining regulatory approvals & necessary clearances, supply of equipment, material, construction, erection, testing and commissioning, maintenance and operation and all other activities essential or required for efficient functioning of their own Telecom infrastructure.
14. The Telecom Infrastructure shall be ordinarily installed at the edge of RoW or at a maximum possible distance from the central line of the nearest carriageway where the road land is wider. In case of restricted width of RoW, which may be adequate only to accommodate the carriageways, central verge, shoulders, slopes of embankments and drains, the Telecom Infrastructure shall be laid beyond the toe line of the embankments and clear of the drain. In cases where no land strip can be conveniently earmarked for installing of Telecom Infrastructure, the permission may be refused. However, it is clarified that the Authority shall have the discretion to refuse permission for installation of telecom infrastructure, without assigning any reason thereof for such refusal.
15. While carrying out the due diligence for the proposed locations as specified in para 10 above, the Authority shall give due consideration to the traffic safety and shall refuse permission to install Telecom Infrastructure, in case, in its opinion, such installation of Telecom Infrastructure may cause a traffic safety hazard. While granting permission to install Telecom Infrastructure, the Authority shall also inspect the distance between consecutive towers, both proposed as well as existing, and shall have the right to alter the proposed location of the Telecom Infrastructure to maintain a minimum distance between Telecom Infrastructure.

16. The Authority shall not be held accountable or liable in any manner in case any financial loss is incurred to the respective road concessionaires by the actions of the Licensee while installation/maintenance/shifting of Telecom Infrastructure including loss in revenue collected from tollable traffic. Compensation for the same to the respective road concessionaires shall be borne by the Licensee. NHAI/MoRTH or their designated representatives shall not be held liable in any manner whatsoever, for any such financial loss.
17. The Licensee shall plan, create, market & manage the Telecom Infrastructure and provide non discriminatory access to all Telecom Service Providers having valid telecom licenses from DoT and shall have the authority to levy charge/fees from the users of Telecom Infrastructure.
18. The Licensee shall obtain and maintain all the applicable clearances required for installation and operation of the Telecom Infrastructure including license/registration with DoT, pollution control board (wherever applicable), clearance from airport authorities, SACFA clearance etc. from the relevant authorities and comply with all the rules and regulations of TRAI, DoT, municipal bodies and other central/state authorities. In addition, the Licensee shall conform to the applicable standards/regulations for electromagnetic radiations emanating from the Telecom towers.
19. Grant of license is subject to the Licensee satisfying the requirement of (a) minimum disruption of traffic and (b) no damage to the NHs. The Authority shall claim damages if such traffic disruption or damage to the NHs is caused by the Licensee. In case any damage is caused to the road pavement, the same shall be restored to the original condition at the Licensee's cost.
20. The Licensee shall provide all safety measures like barricading, danger lighting, and other necessary caution boards during construction and maintenance activities.
21. The Licensee shall follow best industry practices and employ innovative technological solutions, logistics to ensure optimum utilization of NH-RoW.
22. Licensee shall ensure safety and security of all underground/overhead installations/ utilities/ facilities and shall be solely responsible for compensation/indemnification of concerned authority for damage caused/claims or replacements sought for at the cost and risk of Licensee.

23. In case any shifting or alteration in the location of the installed Telecom Infrastructure is required due to widening of highways and construction of flyovers or bridges, the Licensee shall do the same at his own cost within specified period indicated by the Authority. Subsequent to receiving such a request from the Authority, the Licensee shall intimate 2-3 alternative sites to the Authority where the telecom infrastructure can be relocated. Out of these alternative sites, the Authority shall approve one location for such relocation. Any shifting of Telecom Infrastructure shall be done only after receiving Authority's approval on the alternative site for relocation of Telecom Infrastructure.
24. The Licensee shall effect and maintain adequate insurance cover from reputed insurance company against damages to already existing overhead or underground installations/utilities/facilities etc. during construction/maintenance of Telecom Infrastructure.
25. The Licensee shall allow free access to the Site at all times to the authorised representatives of Authority to inspect the Project Facilities and to investigate any matter within their authority, and upon reasonable notice, shall provide reasonable assistance necessary to carry out their respective duties and functions.
26. The Licensee shall pay License fee to the Authority at the rate agreed upon in the License Agreement. Area of the land utilized for installing Telecom Infrastructure shall be specified in the License Agreement. The License fee shall become payable from the date of handing over of RoW land to the Licensee, for installation of Telecom Infrastructure.
27. A Performance Bank Guarantee @ Rs 100per sqm with a validity of one year initially (extendable if required till satisfactory completion of work) shall have to be furnished by each Licensee to the Authority/its designated agency as a security against improper restoration of NH RoW and any disruption/damages caused to the NH traffic as well as damages caused to underground/overhead installations/utility services & interference, interruption, disruption or failure caused thereof to any services etc. The above charge of Rs 100per sqm is liable to be reviewed every 5 years. For clarification, it is hereby mentioned that all required restoration work subsequent to installation of Telecom Infrastructure shall be required to be undertaken by the Licensee at its cost either by itself or through its authorized representative in consultation with the Authority as per predetermined time schedule and quality standards. In case of the Licensee failing to discharge the obligation of making good of the restoration work, the

Authority shall have a right to do so at the cost of the Licensee and recover the amount by forfeiture of the Bank Guarantee. In case, the Performance Bank Guarantee is invoked as mentioned above, the Licensee shall be required to replenish and reinstate the required Performance Bank Guarantee within one month of such invoking. In case the work contemplated herein is not completed to the satisfaction of the Authority, which has granted the permission, within a period of 11 months from the date of issue of the Bank Guarantee, the Licensee shall either furnish a fresh guarantee or extend the guarantee for a further period of one year. Notwithstanding this, the Licensee shall be liable to pay full compensation to the aggrieved Authority/ its designated agency for any damage sustained by them by reason of the exercise of the RoW facility.

28. The NH land used for installation of Telecom Infrastructure shall be landscaped with required safety measures as directed by Authority.
29. Licensee shall be liable to give a notice of 15 days with location details prior to any fresh or maintenance/shifting/repair works. A separate performance Bank Guarantee for maintenance/shifting/repair works shall be furnished by Licensee.
30. If the permission to install Telecom Infrastructure is granted for a period of upto 10 years, then the License Fee for the entire period shall be paid upfront by using the methodology specified above in para 5. In case, the permission is granted for more than 10 years, then the License Fee for first 10 years shall be paid upfront and License fee for remaining period shall be paid at the start of 11th year. It is clarified that the present cost used for the purpose of calculation of License Fee beyond 10 years shall be the cost of land prevailing in the 11th year and shall be calculated by using the formula specified in para 6 above.
31. The period of validity of RoW permission shall be governed by the relevant provisions of The Control of National Highways (Land and Traffic) Act, 2002 and shall be co-terminus with the validity of license and in any case shall be for a maximum period of 20 years initially, after which it can be extended with mutual consent of the Authority and the Licensee.
32. The maximum size of land pocket per location that can be licensed under these guidelines for installation of Telecom Infrastructure shall not be greater than 20 m X 20 m
33. The Divisional/Executive Engineer of the Highway Authority will keep a register of the record of right of way permissions to the licensees who have been permitted access to NH under his jurisdiction.

34. The Licensee shall endeavor to utilise renewable energy by installing solar panels etc. for meeting the energy/power needs of the telecom infrastructure, and any benefits derived out of such renewable energy initiatives shall remain with the Licensee.
35. Telecom infrastructure under this project shall comprise of the following:
- a. Telecom Tower
 - i. Ground based tower/monopole or Rooftop tower/monopole on existing infrastructure/ facilities within NH-RoW e.g. Foot over Bridge (FoB), electric towers/ Poles and similar other structures
 - b. Telecom tower foundation
 - c. All ancillary equipment including the following :
 - i. Shelter/Room for housing the equipment
 - ii. Power generator and incoming EB connection
 - iii. Equipment housing
 - iv. Electrical products like SMPS, battery bank, air conditioners etc.,
 - v. Safety equipment like lightening protection system, earthing system, firefighting equipment, surge protection etc.
 - vi. Other equipment like general lighting, fencing/boundary wall etc.
 - d. Any other component like optical fiber cable/ duct etc., if required, to ensure connectivity of telecom towers with rest of the communication network.
36. The Licensee shall ensure adherence to relevant Indian standards and follow best industry practices, methods and standards for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation, repair and maintenance of any part of the Telecom Infrastructure and which practices, methods and standards shall be adjusted as necessary, to take account of:
- a. operation, repair and maintenance guidelines given by the manufacturers,
 - b. the requirements of Law,
 - c. the physical conditions at the Site, and
 - d. The safety of operating personnel and human beings.