



TARABA STATE RIGHT OF WAY REGULATION, 2014
MINISTRY OF RURAL AND URBAN DEVELOPMENT
31ST MAY 2024

1. ENACTING FORMULA

In the exercise of the powers conferred upon me by section 13(1-6), of the Building lines (Regulation) Law Cap 136 of 1993 [appendix 5], Section 1-5 of the Building lines regulation Law Cap. 22 of 1997 [appendix 6-7], Order 2003 [appendix 1-4] Laws of Taraba State and Clause 135 of the Nigerian Communications Act, 2003 as well as Decree 88 of 1992 and Decree 18, 1999 (Amended) [appendix 8-10] of the Nigerian Urban and Regional Planning Law and all other powers enabling me in that behalf, I TPL. Hamman Ivan Mbaya of the Ministry of Rural and Urban Development hereby makes the following regulations:

2. APPLICATION

These regulations shall apply to the establishment of a regulatory framework for Right of Way in Taraba State

3. REQUIREMENTS FROM LICENSEE OPERATOR

By virtue of clause 135 of Nigerian Communications Act, 2003, a licensee operator under this above mentioned Act;

- i. May require approvals of the State Government for installation, placing, installing or maintenance of any network facilities (“Network Facilities”) on, through, under or across any land and it shall be the responsibility of such licensees to obtain such approvals;
- ii. in installing its Network Facilities, shall take all reasonable steps to ensure that the Operator causes as little detriment and inconvenience, and does as little damage, as is practicable;
- iii. take all reasonable steps to restore the land to a condition that is similar to its condition before the activity began; protect the safety of persons and property; ensure that the activity interferes as little as practicable with: (i) the operations

- of a public utility; (ii) public roads and paths; (iii) the movement of traffic; and (iv) the use of land; and protect the environment.
- iv. shall take all reasonable efforts to enter into respective agreements with public utilities that make provision for the manner in which the licensee will engage in activities that are:(a) related to the installation of its Network Facilities, and (b) likely to affect the operations of the utility.

4. POWERS OF THE MINISTRY TO RECEIVE APPLICATIONS AND CHARGE FEE ON RIGHT OF WAY

Application shall be made to the Ministry of Rural and Urban Development by the licensee operator for granting Right of Way for installation, placing, laying or maintenance of any Network Facilities on, though, under or across any public land within Taraba State, clearly stating the purpose and duration of the occupation. The request is accompanied by a technical file describing the planned works, particularly:

- The route required, in line with the State's Road Inventory,
- The plan of the network showing the ways of passing and anchoring the installations.
- Proper starting and end points of the installation;
- In case of installation on or beside a road, the side of the road on which installation is intended (RHS or LHS);
- The exact length applied for in metres or the surface in m² and, if applicable, the height of the equipment/installation;
- Cross-sectional dimension of intended trench excavation;
- Number of ducts to be laid;
- Type and capacity of ducts and cable to be laid;
- The technical data needed to assess the possibility of sharing existing facilities;
- Detailed layout diagrams for engineering structures and junctions;
- The general conditions for the organization of the site and the name and address of the project manager;
- Excavation and backfill methods;
- Schematic diagrams showing the above;
- A schedule for the execution of the work, indicating the date of commencement and the foreseeable duration of the work.

5. In addition to the requirements specified in section 4 above, every application shall contain the following information and documents:

- i. Name, designation, physical address, telephone number and electronic mail address of the contact person of the Applicant.
- ii. Where such infrastructure is subject to an Environmental Impact Analysis by virtue of the Environmental Impact Assessment [TEPA Law/Regulation-], a copy of such report shall be forwarded with relevant documents.

6. CONFIRMATION OF APPLICATION

The Ministry of Rural and Urban Development shall examine the Application and shall, within three (3-5) working days of submission of the Application, confirm whether the Application is complete or whether there is any deficiency in the application. Where it considers the application deficient, it shall notify the Applicant in writing (or via email), specifying details of the deficiency and/or such additional information that it reasonably requires to evaluate the application.

7. SITE INSPECTION

Where there is any need for physical inspection and/or joint measurements, Ministry of Rural and Urban Development shall inform the Applicant and schedule a date for the inspection.

8. DEMAND NOTICE

The Ministry of Rural and Urban Development shall issue the Applicant a demand notice for the payment of all fees relating to the approval within two (2) working days after site inspection. The Applicant shall make the payment within three (3) days of receipt of the invoice.

9. RIGHT OF WAY PERMIT

Applications for Right of Way shall be granted by Ministry of Rural and Urban Development within Twenty-One (21) Working Days of the submission of the application, the payment of the relevant fees, and the provision of all other relevant documentation and/or information prescribed in this Regulation.

10. GROUNDS FOR DENIAL OF APPLICATION

An approval relating to communications infrastructure may only be denied on the following grounds:

1. Where the applicant fails to provide the necessary information or to pay the relevant fees as stipulated and/or within the time stipulated in this Section.
2. The Nigerian Communications Commission notifies the Ministry of Rural and Urban Development of its disapproval of deploying such infrastructure on the grounds that the Applicant is not licensed to deploy such infrastructure or that the deployment does not satisfy its technical and/or standards.
3. If the intended installation, placing, laying or maintenance of Network Facilities that could affect the integrity of the works and the safety of users shall be deemed incompatible with the use of the public domain.
4. If the request can be met, under conditions equivalent to those that would result from granting Right of Way by the use of the existing facilities of another occupier of the public domain, if such use does not compromise the use of the facilities by that occupier.
5. Suppose the application is not approved after one month from the date the application is received in that case, the Ministry of Rural and Urban Development shall provide the licensee operator a written statement identifying the reasons for its failure to approve and identify what is responsible for the refusal.

12. CONDITIONAL PERMIT

Where the satisfaction of the request of a licensee operator would lead to the use of the whole of the public domain available for the use envisaged and would prevent any additional equivalent use, the Ministry of Rural and Urban Development may make the granting of the Right of Way conditional on the licensee operator carrying out of works, such as installation of additional ducts to allow the subsequent sharing of the facilities with other operators, and the Licensee operator publishing the conditions of access to these facilities on the state official website.

13. APPROVAL OF ADDITIONAL DUCTS

Without prejudice to the provisions of the above clause 12, the Ministry of Rural and Urban Development may impose on the licensee operator a requirement to install additional ducts for redundancy to accommodate other licensee operators and avoid multiple excavations and trenching of roads that could compromise the integrity of roads and damage to previously laid cables or other infrastructure.

14. No licensee operator shall commence any work before the Right of Way grant is duly communicated to the licensee operator.

15. a) The granting of Right of Way on the public domain gives rise to the payment of fees which may not exceed

- a. NGN145 per linear metre for laying of ducts and cables, per kilometer and per artery;
- b. NGN350 per site for Base transceiver station (BTS).
- c. No other Ministry, Department or Agency of Taraba State is entitled to request or charge any fee with regard to the installation, placing, laying or maintenance of network facilities.

16. DUTIES OF APPLICANT AFTER COMPLETION OF WORK

An Applicant that has been granted a Right of Way shall provide the Ministry of Rural and Urban Development with a copy of the "As Laid" drawing for each approval to guide the competent authorities in future rehabilitation, expansion and maintenance work on the public domain.

17. The As Laid drawing in clause 16 above shall show the following for ducts and cables laid:

- A. Depth of the trenching
- B. Number of ducts laid
- C. Type and capacity of ducts
- D. Types of cables Depth of Markers
- E. Position of the ducts and relative to the road centre line
- F. Position of manholes

18. On completion of the work, the Applicant shall obtain the appropriate completion certificate from competent authorities and forward a copy to the Ministry of Rural and Urban Development.

19. Relocation of ducts and cables during rehabilitation/construction of roads, if cables are found to obstruct road works, shall be carried out by the Applicant at its own expense.

20. Digging or Damages to road/right of way during installation shall be reinstated to its original state within seven (7) days, or fourteen (14) days of installation of equipment by the Applicant.

21. SANCTIONS

The breach of this Taraba State Right of Way Regulation 2024 shall be punishable by any of the following:

- a) Fines of up to NGN72.5K per linear meter of the initial charges of NGN145 per linear meter
- b) Suspension of Right of Way
- c) Termination of Right of Way

22. MISCELLANEOUS PROVISIONS

- i. The provisions of the Taraba State Building Lines Law of 2003 are revoked.
- ii. This Taraba State Right of Way Regulation 2024 may be cited as Taraba State Right of Way Regulation 2024 and comes into effect this 31st day of May, 2024.
- iii. in connection with the installation of its Network Facilities, take all reasonable steps to act in accordance with good engineering practice;