



BENUE STATE RIGHT OF WAY REGULATION ON FIBER OPTIC DEPLOYMENT  
September 12<sup>th</sup>, 2024

**PART I— Preamble**

- 1 By virtue of clause 135 of Nigerian Communications Act, 2003, a licensee operator under this above-mentioned Act
  - a) may require approvals of the State Government, Local Government or other relevant authority 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;
  - b) shall, in installing its Network Facilities, take all reasonable steps to ensure that the Operator causes as little detriment and inconvenience, and does as little damage, as is practicable;
  - c) shall take all reasonable steps to restore the land to a condition that is similar to its condition before the activity began;
  - d) shall, in connection with the installation of its Network Facilities, take all reasonable steps to—
    - act in accordance with good engineering practice;
    - 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;
  - e) 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.
- 2 In the application of the above-mentioned clause 135 of Nigerian Communications Act, 2003 and in the exercise of its powers over the Rights of Way (**RoW**) within the Benue State, the Benue State Urban Development Board in the exercise of the



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powers it holds in virtue of the Urban Development Board (Amendment) Law, 2020' CAP 169 of Benue State, 2004 receives applications or requests for approval for installation, placing, installing or maintenance of any telecommunications network facilities from any licensee operator;

- 3 No other Ministry, Department or Agency of Benue State is entitled to request or charge any fee with regard to the installation, placing, laying or maintenance of Network Facilities.

**Part 2 - Application and Grant of Right of Way**

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

- a) The route required, in line with the State's Road Inventory;
- b) The plan of the network showing the ways of passing and anchoring the installations;
- c) Proper starting and end points of the installation;
- d) In case of installation on or beside a road, the side of the road on which installation is intended (RHS or LHS);
- e) Exact length applied for in metres or the surface in m<sup>2</sup> and, if applicable, the height of the equipment/installation;
- f) Cross sectional dimension of intended trench excavation;
- g) Number of ducts to be laid;
- h) Type and capacity of ducts and cable to be laid.
- i) The technical data needed to assess the possibility of sharing existing facilities;
- j) Detailed layout diagrams for engineering structures and junctions;



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- k) The general conditions for the organisation of the site and the name and address of the project manager;
  - l) Excavation and backfill methods;
  - m) Schematic diagrams showing the above;
  - n) 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 clause 4 above, every application shall contain the following information:
- a) Name, designation, physical address telephone number and electronic mail address of the contact person of the Applicant.
  - b) Where such infrastructure is subject to an Environmental Impact Analysis by virtue of the Environmental Impact Assessment National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007, a copy of such approval.
  - c) Site Analysis Report
  - d) Tax Clearance Certificate
  - e) Certificate of Incorporation
  - f) Articles of Memorandum, and
  - g) Map and any illustration of the affected settlements showing the routing of the duct.
- 6 The Benue State Urban Development Board shall examine the Application and shall, within three (3) 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 that there is a deficiency in the application, 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 Where the Application is satisfactory (and/or where the Applicant has made good any deficiency in the application), the Benue State Urban Development Board shall



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issue the Applicant with an invoice for the payment of all fees relating to the approval within seven (7) working days of the submission. The Applicant shall make the invoiced payment within three (3) days of receipt of the invoice.

- 8** Where there is any need for physical inspection and/or joint measurements, Benue State Urban Development Board shall inform the Applicant and schedule a date for the inspection.
- 9** Applications for RoW shall be granted by Benue State Urban Development Board 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, whichever is later.
- 10** Where the Benue State Urban Development Board fails to confirm approval in writing within the stipulated Twenty-One (21) Working Days, such approval will be deemed granted and the Applicant shall commence the deployment of the planned infrastructure as if a formal approval had been received. An approval relating to communications infrastructure may only be denied in the following cases;
  - a) 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.
  - b) Where the grant of the RoW will be in contravention of the Dig-Once Policy specified of the State.
  - c) Where the Nigerian Communications Commission notifies the Benue State Urban Development Board of its disapproval of the deployment of such infrastructure on the grounds that the Applicant is not licensed to deploy such infrastructure or that the deployment does not satisfy its technical requirement and/or standards.
  - d) 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.
  - e) If the request can be met, under conditions equivalent to those that would result from granting RoW by the use of the existing facilities of another



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occupier of the public domain, if such use does not compromise the use of the facilities by that occupier.

- 11 If the application is not approved after one month from the date the application is received, the Benue State Urban Development Board shall provide the licensee operator a written statement identifying the reasons for its failure to approve and identify which Ministry, Department or Agency is responsible for the refusal.
- 12 Where the satisfaction of the request of an 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 Benue State Urban Development Board may make the granting of the RoW conditional on the licensee operator carrying out 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 its website may include other channels as deemed appropriate.
- 13 Without prejudice to the provisions of the above clause 12, the Benue State Urban Development Board may impose on the licensee operator a requirement to install [2] additional ducts for redundancy to accommodate other licensees 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 RoW granted is duly communicated to the licensee operator.
- 15 The granting of RoW on the public domain gives rise to the payment of fees which may not exceed:
  - a) NGN145/ linear metre for laying of ducts and cables, per kilometre and per artery;

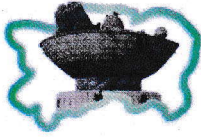
Artery means in the case of land or subsoil use, a duct containing or not containing cables, or a cable in the ground; in all other cases, all cables pulled between two supports.



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**Part 3 – Duties after Completion of Work**

- 16 An Applicant that has been granted a RoW shall provide the Benue State Urban Development Board 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 drawings shall show the following:
  - a) For ducts and cables laid:
    - Depth of the trenching
    - Number of ducts laid
    - Type and capacity ducts
    - Types of cables
    - Depth of Markers
    - Position of the ducts and relative to the road centre line
    - Position of manholes
  - b) For other installations
    - A detailed description of installation plan was be presented
- 18 On completion of the works, the Applicant shall obtain the appropriate completion certificate from competent authorities and forward a copy to the Benue State Urban Development Board;
- 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 14 number of days; or 14 numbers days of installation of equipment by the Applicant.



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**Part 4 – Sanctions**

- 21 The breach of this Regulation shall be punishable by any of the following:
- a) Fines up to Five Million (N5,000,000)
  - b) Suspension of RoW of Fiber Optic Deployment
  - c) Termination of RoW of Fiber Optic Deployment

**Part 5 – Miscellaneous provisions**

- 22 The existing Regulation is revoked.
- 23 This Regulation may be cited as Benue State Right of Way Regulation on Fiber Optic Deployment and comes into effect on September 09, 2024

**Tpl. Ternongo Mede**

General Manager, Benue State Urban Development Board