JIGAWA STATE Right-of-Way [RoW] Regulatory Reforms

1. **Executive Order on Reduction of Charges for Right of Way Permit**
2. **Executive Council Approval**
3. **Reviewed RoW Regulations**

Ministry of Land, Housing, Urban Development and Regional Planning

December 2023

OFFICE OF THE EXECUTIVE GOVERNOR
GOVERNMENT HOUSE, DUTSE

Executive Order No. 3 of 2023

Executive Order on Reduction of Right-of-Way Charges in Jigawa State

WHEREAS the Government of Jigawa State is committed to the pursuit of Policy & Regulatory Reforms on Right-Of-Way with a view to supporting the development of a Digital Economy in the State.

NOW THEREFORE, pursuant to the authority and powers vested in me by the Constitution of the Federal Republic of Nigeria, 1999 (as amended), other State Laws, and in particular, the approval granted by the State Executive Council as contained in EXCO CONCLUSION CONC (JEC/23/2023) on the review of Right-of-Way charges in Jigawa State as recommended by the Jigawa State Internally Generated Revenue Advisory Committee established under Law No. 4 of 2019 (Jigawa State Revenue Harmonization, Consolidation and Codification Law), I declare as follows:

That the fees chargeable in respect of permits granted to telecommunication companies and internet service providers for the installation of fiber optic cables and other communication network infrastructure along public and private lands which falls under the statutory responsibility of the Jigawa State Urban Development Board, is hereby reduced from ₦1,000 per linear meter to ₦145.00 per linear meter throughout Jigawa State with effect from 21st December, 2023.

DATED THIS 7th DAY OF December 2023.

MALAM UMAR A. NAMADI, FCA
EXECUTIVE GOVERNOR, JIGAWA STATE

DIRECTORATE OF COUNCIL AFFAIRS

JIGAWA STATE

Office of the Secretary to the State Govt.
P.M.B. 3511
Dutse,
Jigawa State
Email: councilaffssg@jigawastate.gov.ng

In case of Reply
Please quote the Ref. No

24th Jumada-Ula, 1445AH

Ref No: CONC/30/2023

7th December, 2023

Date: 20

The Honourable Commissioner,
Ministry of Finance,
Dutse, Jigawa State.

29/12/2023

APPROVAL TO REDUCE RIGHT OF WAY (RoW) FEES IN JIGAWA STATE.

The State Executive Council at its meeting held on Thursday 7th December, 2023 **DELIBERATED** on the Memorandum presented by you, on the request for approval to reduce Right of Way (RoW) fees in Jigawa State.

2/ Council **CONSIDERED** the Memorandum and **NOTED:**

i) **That, the purpose of the memorandum is to request for approval for the review of fees charged for Right of Way (RoW) permits being collected statutorily by the State Urban Development Board;**
ii) **That, the need for the review was informed by adoption of the State Policy on RoW aimed at improving internet penetration and the attainment of Government's objective on the emergence of a digital economy in the State;**
iii) **That, the need for review was further supported by the inclusion of RoW reduction as one of the State Commitments in the Mutual Accountability Framework signed FCDO as well as the inclusion of RoW reduction as one of the DLIs in the World Bank Assisted SABER Program which comes with a price tag of US$2.0million;**
iv) **That, Section 95 (1) of Law No.4 of 2019 (Jigawa State Revenue Harmonization, Consolidation and Codification Law) has empowered the State Internally Generated Revenue Advisory Committee to make recommendations on review of rates based on Governor's approval;**
v) **That, taking all factors into account and in accordance with the provisions of the Law, the Revenue Advisory Committee has considered and recommended for a review of the RoW charges in Jigawa State from the current ₦1,000 per linear meter to ₦145.00;**
vi) **That, an Executive order will be issued by the Governor to give effect to the change.**

3/ Council **APPROVED** the recommendation of the Revenue Advisory Committee for a review of the RoW charges from **₦1,000 per linear meter to ₦145.00** with effect from **21st December, 2023** and the subsequent issuance of the Executive Order by His Excellency, the Governor.

4/ This letter is copied to the Attorney General/Commissioner of Justice, Executive Secretary, Urban Development Board, and the State Auditor General for information and further necessary action.

5/ Esteemed regards.

ABBA MUHAMMAD, mni
PERMANENT SECRETARY (CA&SSD),
FOR: SECRETARY TO THE STATE GOVERNMENT.

JIGAWA STATEURBAN DEVELOPMENT BOARD
REVISED REGULATION FOR RIGHT -OF-WAY (RoW) PERMITS
December 2023

PART I— Preamble

1 By virtue of [clause 135 of Nigerian Communications Act, 2003], a licensee operatorunder 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, though, 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 Jigawa State, the Jigawa State Urban Development Board receives applications or requests for approval for installation, placing, installing or maintenance of any telecommunications network facilities from any licensee operator;

The Jigawa State Urban Development Board (UDB) may imposea lump sum fee in the maximum limit of NGN145.00 [One Hundred and forty-five Naira) per Linear Meter exercise of the powers it holds in virtue of the Law No. 4 of 2019 and Executive Order No. 3 of 2023 for the installation, placing, laying or maintenance of the Network Facilities;

3 No other MDA or Authority other than the Jigawa State Urban Development Board 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 the Jigawa State Urban Development Board by the licensed operator for granting RoW for installation, placing, laying or maintenance of any Network Facilities on, through, under or across any public land within Jigawa 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 m2 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;
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 clause4 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 [Jigawa State Laws, CAP J11 Jigawa State Environmental Protection Agency Law), a copy of such approval.

6 The Jigawa 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 Jigawa State Urban Development Board shall 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, the Jigawa State Urban Development shall inform the Applicant and schedule a date for the inspection.

9 Applications for RoW shall be granted by the Jigawa State 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 whichever is later.

10 Where the Jigawa State Urban Development 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 Jigawa State Urban Development 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 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 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 Jigawa State Urban Development shall provide the licensee operator a written statement identifying the reasons for its failure to approve and identify which the Jigawa State Urban Development 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 Jigawa State Urban Development may make the granting of the RoW 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 its website.

13 Without prejudice to the provisions of the above clause 7, the Jigawa State Urban Development 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 grant 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 exceedNGN145/ 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.

Part 4 – Duties after Completion of Work

16 An Applicant that has been granted a RoW shall provide the Jigawa State 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 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

18 On completion of the works, the Applicant shall obtain the appropriate completion certificate from competent authorities and forward a copy to the Jigawa State 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.

Part 5– Sanctions

20 The breach of this Regulation may lead to any of the following:

a) Fines of up to NGN500,000
b) Suspension of RoW
c) Termination of RoW

Part 6 – Miscellaneous provisions

21 This Regulation is supreme and its provisions shall have a binding force and in the event that the provision of any other regulation(s) or law(s) is inconsistent with its provision, these provisions of this regulation shall prevail.

22 This Regulation may be cited as [Jigawa State Revised Regulation for Right of way] and comes into effect on [December, 2023]

Signed,
The Executive Secretary,
Jigawa State Urban Development Board