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Right of Way (RoW) Policy 2012

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1. DEFINITIONS

“Agency” refers to Department/organization/company Incharge of the road.

"Service Provider" refers to execution agency/corporations/pvt .firms or any agency (registered with department of Telecommunication) requesting for Right of Way for laying telecom cables.

“ITD” refers to Information Technology Department, Jammu & Kashmir.

2. INTRODUCTION

Government has realized the need for creating a robust telecommunication infrastructure with adequate bandwidth at affordable rates in order to promote development and proliferation of information Technology, Electronic Governance, e-Commerce, convergence of Information, Communication and Entertainment sectors so as to improve the state of economy, enhance the quality of life of the citizens and to ensure development of urban and rural areas with equity throughout the country.

The State Information Technology department stresses the need of availability of a robust telecommunication infrastructure with adequate bandwidth across the length and breadth of the state. The globally accepted method of creating broad band networks is through laying optical fiber as backbone. The optic fiber has to be laid either underground or on Network of power utilities. The optical fiber is laid along the roads like the National Highways, State Highways and other road networks and lands belonging to the State Government Departments viz. Public Works Department (Buildings and Roads), Forests, Irrigation, Revenue, Agriculture etc. and local bodies/authorities like Panchayat, Municipal Corporations, Municipalities, Urban Development Authorities etc.

Whereas in the absence of some specific policy, proposals for laying telecom cables get delayed .Keeping this in view, the State Government has decided to frame a policy (Right of Way) to issue guidelines for issuing permissions/clearances to the Service Providers desirous of laying optical fiber cable in the State. This policy covers only laying of communication infrastructure in the State of Jammu & Kashmir on the land belonging to any agency, including National Highways.

Now therefore, with the view to achieve the above objectives the State Government is hereby pleased to notify the Right of Way (ROW) Policy as under:

3. THE ROW POLICY OF J&K

1. The Right of Way Policy will be applicable for all roads owned and managed by State Government, Local Bodies, Public Sector Undertakings and Border Road Organization in the State.
2. The Administrative Secretary, Information Technology Department shall be the

nodal officer and all such applications for Right of Way shall be made to Secretary ITD. Secretary IT shall provide conditional permission to the agency directing the District Development Authorities to expedite necessary clearances through a committee as proposed at Para 3. The service provider availing the Right of Way should submit the completion report to Secretary, Information Technology Department so that updated information of the Optical Fiber Cable Network in the state can be maintained.

3. In order to expedite Right of Way clearances to the Service provider in a time bound manner through an appropriate and effective approval mechanism, District Level committees under the chairmanship of Deputy Commissioners concerned shall be as under:
 1. Additional District Development commissioner
 2. Superintending Engineer(R&B)
 3. Superintending Engineer(PHE& Irrigation)
 4. Superintending Engineer(PDD)
 5. Municipal Commissioner /Executive Officer Municipal committee /Notified Area Committee
 6. Assistant Commissioner(Revenue)
 7. Assistant Commissioner(Development)
 8. District Forest Officer
 9. District Informatics Officer , NIC
 10. Any other concerned officer as decided by the Deputy Commissioner.

The composition of the committee would be such as the Government may from time to time. Divisional Commissioner of the respective Division shall be the reviewing authority and shall periodically review the progress of the Right of Way clearances by the committee. Right of Way for National Highway lands would be granted by Ministry of Road Transport and Highways (MORTH) or its designated authority.

4. Service provider shall be sole responsible for full restoration/reinstatement i.e. bring the original position of the digged surface / damages caused to other underground installation/utility services/ interruption ,replacement, disruption or failure caused thereof to any services up to the satisfaction of the concerned department.
5. Service Providers registered with Department of Telecommunication are eligible to avail the Right of Way permission/clearances. However, enforceability for the permission/clearances so granted shall be restricted to the extent of provision/scope of service contained/defined for the license so granted by the Department of Telecommunication.
6. The validity of "Right of Way" would be co-terminus with the validity of license of the Service Provider.
7. Electric Utilities shall give Right of Way on their transmission lines/sub-transmission lines/distribution lines free of cost to Service providers for installation of

OPGW/ADSS cables .However the details of installations shall be forwarded to the Power department for their information .The Service provider shall compensate Power department for any damages caused during the installation.

8. The clearances granted shall not in any way be deemed to confer to the service provider any ownership right or any interest in route/highway land/property.
9. In case of up gradation of the road or extension of road carriage width, the cables/ducts or any other structures laid by the service provider shall be shifted and re-laid by the service provider at their own cost and within specified period indicated by the R&B Department/Rural Development Department or the agency in-charge of the road or as decided by the respective district committee.
10. Service Provider shall give a notice of atleast 15 days in advance to the respective District committee along with route details prior to digging trenching for fresh works. In case of maintenance work, the period of notice would be 3 days. However, in case of urgent repair work the notice period may be waived off by the chairman of the concerned district committee.
11. Shifting of existing facilities like telephone cables, electrical lines, electrical poles etc. wherever required would be done in a time bound manner and at their own cost. The service provider will ensure that there is no hindrance to the free flow of traffic.
12. The service provider shall ensure that the debris/waste material if any shall be disposed by them at their own cost failing which the place of the concerned department will do so at the cost of the Service provider. The digging of the trenches would be strictly regulated so that cables are laid and trenches are filled up before the close of the work every day. Filling should be completed to the satisfaction of the Department. While carrying out digging work, necessary caution like barricading, traffic diversion signs, danger lighting etc. shall be provided by the user. The Service provider shall be responsible for any damage caused to any individual or public at large and shall be responsible to compensate the cost.
13. The District level committee shall grant the Right of Way clearances within 15 days after receipt of conditional permission issued by Administrative Secretary, Information technology department to the concerned district. In case the district level committee fails to grant clearances within 15 days, the Service provider may approach to the respective Divisional Commissioner.
14. As per the site conditions if private land has to be utilized or private structures are to be utilized, the service provider will be required to meet the cost of land acquisition/rentals etc. as the case may be.
15. The cables/pipelines shall be underground at approved depth as per the direction of the respective District committee.
16. Any structure above ground shall be aesthetically provided for/landscape with

required safety measures as per the direction of the respective District committee.

17. In case of overhead cables/ducts to be placed from point to point connection, usage of high tension poles can be accessed once the clearance for the same has been undertaken from the concerned District Committee.
18. There will be a provision of reinforced ducts in all important new roads being constructed in Jammu & Kashmir. These ducts will be used for laying communication cables by the various service providers after due approval of the concerned district committee.
19. In order to avoid repeated digging on the same routes, if possible, the first incumbent is free to lay voluntarily extra ducts/conduits with extra capacity so as to take care of the future needs. However the creation of excess capacity by the first incumbent shall not be a pre-condition for giving Right of Way (RoW) clearances.
20. Service provider required to provide to the State Government as minimum bandwidth of 16 Mbps at State Headquarters (2No.'s), 8Mbps at District Headquarters (one in each district) and 2 Mbps at each tehsil/Sub Division/block free of cost. Directions to the Service provider for the same would be communicated by the Administrative Secretary, Information Technology department. This facility will be made available to the State Government till the date the Service Provider has operations in Jammu & Kashmir.
21. In case of breach of any of the clauses of the RoW policy, the Government will be empowered to terminate the contract after giving a show cause notice of 15 days. One officer of the rank of Principal Secretary to be nominated by the Government of Jammu-Kashmir will act as Arbitrator to whom the matter will be referred to and the decision of the Arbitrator will be final and binding on both the parties.