

NIGER STATE RIGHT OF WAY FOR FIBRE OPTIC DEPLOYMENT REGULATION 2024

In exercise of the powers conferred upon the Niger State Urban and Regional Planning Board by section 74 of the Niger State Urban and Regional Planning Board Edict (Law) 1999, and other powers enabling it, the Niger State Urban and Regional Planning Development Board hereby makes the following Regulations.

Part 1 - CITATION AND COMMENCEMENT

1. Citation

This Regulation may be cited as the Niger State Right of Way Regulation 2024, No: 02 and shall come into operation on the 30th Dec. 2024

2. Interpretation

In this Regulation, unless the context otherwise requires:

“**Additional Ducts**” means extra conduits or pathways installed alongside existing infrastructure to facilitate future installations and sharing of utility services among multiple operators.

“**Applicant**” means an individual or entity that submits a request for permission to install or maintain infrastructure within the Right of Way, including telecommunications companies, utility providers, or other licensed operators.

“**As Laid Drawings**” means detailed drawings that document the actual installation of infrastructure, including the depth, location, and type of ducts and cables laid.

“**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.

“**Board**” means Niger State Urban Development Board.

“**Colocation**” means where multiple entities (such as service providers or operators) share the same physical infrastructure or facilities.

“**Completion Certificate**” means a formal document issued by the Niger State Urban Development Board confirming that the installation of infrastructure has been completed in accordance with the approved plans and Regulations.

“Environmental Impact Assessment (EIA)” means a process used to evaluate the potential environmental effects of a proposed project before it is carried out.

“Licensee Operator” means an individual or entity that has been granted a license by Niger State Urban Development Board to install, maintain, or operate network facilities within a specified jurisdiction.

“Network Facilities” means the physical infrastructure used for telecommunications or utility services, including cables, ducts, poles, and other equipment necessary for the transmission of data or electricity.

“Public Domain” means land or property owned by the government and accessible to the public, including roads, parks, and other areas where infrastructure may be installed.

“Public Utility” means an organization that provides essential services to the public, such as water, electricity, gas, or telecommunications.

“Sanctions” means penalties or disciplinary actions imposed for non-compliance with the Regulations, which may include fines, suspension, or termination of the Right of Way.

“Technical Data” means information necessary to assess the feasibility and safety of proposed installations, including specifications, engineering designs, and operational parameters.

“Working Days” means the days of the week (typically Monday through Friday) during which normal business operations are conducted, excluding weekends and public holidays.

“Joint Measurements” means collaborative assessments conducted by Niger State Urban Development Board and the Applicant to measure and verify the dimensions and conditions of the site where the infrastructure is to be installed.

“Right of Way (RoW) Permit” means the permission granted to install, maintain, or operate infrastructure on public or private land.

Part 2 - PREAMBLE

1. Purpose

The purpose of this Regulation is to facilitate the efficient deployment of telecommunications and utility infrastructure while ensuring minimal disruption to public spaces and the environment.

2. Scope of Application

This Regulation applies to all Licensee Operators seeking to install, place, lay, or maintain network facilities on, under, or across public land within Niger State.

3. Commitment to Public Interest

In all activities, Licensee Operators shall prioritize public safety, environmental sustainability, and the interests of local communities.

4. Collaboration with Authorities

Licensee Operators are encouraged to work collaboratively with local government and regulatory bodies to ensure compliance with all applicable laws and standards.

5. Regulatory Framework

This Regulation is established in accordance with the provisions of the Nigerian Communications Act, 2003, and other relevant laws and Regulations.

6. Acknowledgment of Stakeholders

The successful implementation of this Regulation relies on the cooperation of all stakeholders, including government agencies, utility providers, and the public.

PART 3 – LICENSING AND APPROVAL REQUIREMENTS FOR NETWORK FACILITIES INSTALLATION

7. Licensing Requirements

By virtue of clause 135 of the Nigerian Communications Act, 2003, a Licensee Operator under the above-mentioned Act:

a. Shall require approvals of the State Government, Local Government and the Niger State Urban Development Board 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:
 - i. Act in accordance with good engineering practice;
 - ii. Protect the safety of persons and property;
 - iii. Ensure that the activity interferes as little as practicable with the operations of a public utility, public roads and paths, the movement of traffic and the use of land; and
 - iv. 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 related to the installation of its Network Facilities and likely to affect the operations of the utility.

8. Right of Way (RoW) Applications Process and Fee Structure

- a. Pursuant to Clause 135 of the Nigerian Communications Act, 2003, and its authority over Rights of Way (RoW) within Niger State, the Niger State Urban Development Board shall receive and process applications or requests from licensed operators for the installation, placement, or maintenance of telecommunications network facilities.
- b. Pursuant to the provision of the Niger State Urban and Regional Planning Development Board Edict (Law) No.3 of 1999, the Board shall charge an aggregate fee not exceeding ₦145 per linear meter for the deployment of Fibre Optic cables.

9. Application for Right of Way (RoW) Permit

- 1. A Licensee Operator intending to install, place, lay, or maintain any Network Facilities on, through, under, or across any public land within Niger State shall be required to apply to the Niger State Urban Development Board.
- 2. The application shall strictly follow the steps outlined by the Niger State Urban Development Board in the Guideline For Application And Obtaining Right Of Way (Row) Permit In Niger State, 2023.

3. Additionally, all application for Right Of Way (Row) Permit shall be 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 with coordinates;
- 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 meters 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 cables 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 organization of the site and the name and address of the project manager;
- l. Excavation and backfill methods;
- m. Schematic diagrams showing the above; and
- n. A schedule for the execution of the work, indicating the date of commencement and the foreseeable duration of the work.

4. 3. The request must be accompanied by a technical file describing the planned works, including detailed specifications and engineering plans, as outlined in the Board's requirements. Failure to comply with these guidelines may result in the rejection of the application.

PART 4 – REVIEW OF APPLICATIONS FOR NETWORK FACILITIES INSTALLATION

10. Approval Process

- a. Upon receipt of the application, the Niger State Urban Development Board shall review the documents and may request additional information if necessary.

- b. The Board shall notify the applicant of its decision within ten (10) working days from the date of submission of the complete application.
- c. If the application is approved, the Board shall issue a permit specifying the terms and conditions under which the work is to be carried out.
- d. If the application is denied, the Board shall provide reasons for the denial and allow the Applicant to resubmit the application with the required amendments.

11. Conditions of Approval

The permit issued by the Niger State Urban Development Board shall include, but not be limited to, the following conditions:

- a. Compliance with all relevant laws and Regulations;
- b. Adherence to the approved route and installation plan;
- c. Minimization of disruption to public services and traffic;
- d. Restoration of the site to its original condition upon completion of the work;
- e. Provision of As Laid Drawings within 30 days of project completion; and
- f. Submission of a Completion Certificate within 30 days of project completion.

12. Environmental and Safety Standards

Licensee Operators shall:

- a. Conduct an Environmental Impact Assessment (EIA) if required by the Niger State Environmental Protection Agency.
- b. Implement necessary measures to mitigate any adverse environmental impacts identified in the EIA.
- c. Ensure that all installation and maintenance activities comply with occupational health and safety standards.
- d. Provide appropriate signage and barriers to protect the public and workers during installation and maintenance activities.

13. Inspection and Compliance

- a. The Niger State Urban Development Board shall have the right to inspect the site at any time to ensure compliance with the terms and conditions of the permit.
- b. Licensee Operators shall cooperate fully with inspection officials and provide access to all relevant documentation and sites.
- c. The Board may issue directives to rectify any non-compliance observed during inspections, and the Licensee Operator shall comply with such directives within the specified timeframe.

14. Sanctions for Non-Compliance

- a. Failure to comply with the terms and conditions of the permit may result in the suspension or revocation of the permit.
- b. Non-compliance with directives issued by the Board may attract fines, additional fees, or other penalties as deemed appropriate by the Board.
- c. Persistent or serious breaches of Regulations may lead to legal action against the Licensee Operator.

Part 5 – Duties after Completion of Work

15. Submission of "As Laid" Drawings

An Applicant that has been granted a RoW shall provide the Niger 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. The As-Laid drawings shall show the following:

- i. For ducts and cables laid:
 - a. Depth of the trenching;
 - b. Number of ducts laid;
 - c. Type and capacity of the ducts;
 - d. Types of cables;
 - e. Depth of Markers;

- f. Position of the ducts and relative to the road center line; and
- g. Position of manholes;
- ii. For other installations;
 - a. [Location and dimensions of equipment enclosures;
 - b. Type and capacity of the installations;
 - c. Elevation and mounting detail;
 - d. Power supply routes and connections; and
 - e. Any additional protective measures.

16. On completion of the works, the Applicant shall obtain the appropriate completion certificate from competent authorities and forward a copy to the [Niger State Urban Development Board];

17. 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.

18. Digging or damages to road/right of way during installation shall be reinstated to its original state within [7 days]; or [14] days of installation of equipment by the Applicant.

PART 6 - FEES AND CHARGES

19. Fee Structure

- a. The Niger State Urban Development Board shall establish a fee structure for the processing of applications, issuance of permits, and inspections.
- b. The fee structure shall be reviewed periodically and published for transparency.

20. Payment of Fees

- a. All fees shall be paid in full before the issuance of permits.
- b. Proof of payment must be submitted to Niger State Urban Development Board before the permit can be issued.

PART 7 - INFRASTRUCTURE SHARING AND COLOCATION

21. Encouragement of Infrastructure Sharing

- a. Licensee Operators are encouraged to share existing infrastructure to minimize environmental impact and reduce costs.
- b. Applications for new installations must include an assessment of the feasibility of sharing existing infrastructure.

22. Colocation Agreements

- a. Licensee Operators entering into colocation agreements shall ensure that the terms and conditions are fair and non-discriminatory.
- b. Copies of colocation agreements must be submitted to the Niger State Urban Development Board for approval.

PART 8 - ENFORCEMENT AND PENALTIES

23. Authority to Enforce

- a. The Niger State Urban Development Board shall have the authority to enforce compliance with this Regulation.
- b. Enforcement officers shall be appointed and authorized to conduct inspections, issue directives, and take necessary actions to ensure compliance.

24. Offences and Penalties

1. Any person or Licensee Operator who contravenes or fails to comply with any provision of this Regulation shall be deemed to have committed an offence and shall be liable for prosecution.
2. Such an offender shall be prosecuted before a court of competent jurisdiction and, upon conviction, shall be subject to the penalties prescribed herein. The following are the offences and corresponding penalties under this Regulation:
 - a. Any Licensee Operator who installs network facilities without obtaining the necessary Right of Way (RoW) permit from the Niger State Urban Development Board commits an offence and shall, on conviction, be

liable to a fine not exceeding Five Hundred Thousand Naira (₦500,000) or imprisonment for six months, or both.

- b. Any Licensee Operator who fails to restore the site to its original condition as required under the regulation upon completion of installation or maintenance of network facilities commits an offence and shall, on conviction, be liable to a fine of Two Hundred Thousand Naira (₦200,000) or three (3) month imprisonment, or both.
- c. Any Licensee Operator who deviates from the approved installation plan without obtaining prior approval from the Board shall be guilty of an offence and on conviction, liable to a fine of Two Hundred Thousand Naira (₦200,000) or three (3) months imprisonment, or both.
- d. Any Licensee Operator who, in the course of installation or maintenance of network facilities, causes significant environmental damage due to failure to conduct the required Environmental Impact Assessment (EIA) or failure to implement required mitigation measures shall be guilty of an offence and on conviction, liable to a fine not exceeding Five Hundred Thousand Naira (₦500,000) or six (6) months imprisonment, or both.
- e. Any Licensee Operator who disrupts public utilities, such as water, electricity, or gas services, during the installation of network facilities without taking necessary precautions shall be guilty of an offence and liable to a fine of Two Hundred Thousand Naira (₦200,000) or two (2) months imprisonment, or both.
- f. Any Licensee Operator who installs network facilities without adequate safety measures, including signage and protective barriers, endangering public safety, shall be guilty of an offence and on conviction, liable to a fine of Two Hundred Thousand Naira (₦200,000) or three (3) months imprisonment, or both.
- g. Any Licensee Operator who obstructs or refuses to cooperate with enforcement officers conducting inspections as provided under this regulation shall be guilty of an offence and on conviction, liable to a fine not exceeding Two Hundred Thousand Naira (₦200,000) or three (3) months imprisonment, or both.
- h. Any Licensee Operator or applicant who provides false or misleading information during the application process for a Right of Way permit shall be guilty of an offence and on conviction, liable to a fine of Two Hundred Thousand Naira (₦200,000) or six (6) months imprisonment, or both.
- i. Any person or entity who installs or constructs infrastructure on public property, including roads, without the necessary approvals from the Niger State Urban Development Board shall be guilty of an offence and liable to

a fine not exceeding One Hundred Thousand Naira (₦100,000) or one (1) month imprisonment, or both.

- j. Any Licensee Operator who fails to pay the necessary fees for the Right of Way permit as stipulated under this regulation shall be guilty of an offence and on conviction, liable to a fine of Fifty Thousand Naira (₦50,000) or one (1) month imprisonment, or both.
- k. Where an offence under this Regulation continues after the service of the relevant notice by the Niger State Urban Development Board, the offender, upon conviction, shall, in addition to the prescribed penalty, be liable to an additional fine of fifty Thousand Naira (₦50,000) for each day the offence persists.
- l. For the purpose of this Regulation, "any person" shall include the applicant, their servants, agents, or privies; as well as any developer, independent contractor, architect, engineer, builder, town planner, or any other individual or entity involved, who knowingly participates in the violation of the provisions of this Regulation.

3. Subject to any restrictions or conditions prescribed by the Constitution or any other law, a Magistrate Court shall have jurisdiction and powers regarding the trial of offences and penalties made under this Regulation.

25. Appeals Process

- a. Any individual or Licensee Operator convicted of an offence under this Regulation or penalized by the Niger State Urban Development Board may appeal the enforcement action or penalty imposed, initially through amicable dispute resolution as outlined in this Regulation.
- b. The appeal must be submitted in writing to the Niger State Urban Development Board within 5 working days of receiving the notification of the enforcement action or penalty. The appeal should clearly state the grounds for contesting the decision, including supporting documents or evidence.
- c. Upon receipt of the appeal, the Board may initiate an amicable dispute resolution process, providing all parties the opportunity to present their case. If a resolution is achieved, the agreed terms shall be binding on all parties.
- d. If the dispute remains unresolved after the Board's internal dispute resolution process, the appellant may, within 14 working days, refer the matter to a Magistrate Court, which shall have jurisdiction to hear and determine the appeal.

- e. The filing of an appeal may, at the discretion of the Board, temporarily suspend the enforcement of the penalty until the appeal is reviewed. However, immediate enforcement may proceed in cases where public safety or critical infrastructure is at risk.
- f. The Magistrate Court shall review the case and issue a decision, which may involve upholding, modifying, or overturning the enforcement action or penalty imposed by the Board.
- g. The decision of the Magistrate Court shall be final and binding, except where further appeal is allowed under the laws governing the jurisdiction of the court.

PART 9 - RECORD KEEPING AND REPORTING

26. Documentation Requirements

- a. Licensee Operators shall maintain accurate records of all activities related to the installation, maintenance, and operation of network facilities.
- b. Records shall include permits, As Laid Drawings, Completion Certificates, inspection reports, and any other relevant documentation.

27. Reporting Obligations

- a. Licensee Operators shall submit periodic reports to the Niger State Urban Development Board detailing ongoing and completed projects.
- b. Reports shall include information on compliance with environmental and safety standards, infrastructure sharing, and any incidents or violations.

28. Data Management

- a. The Board shall establish a data management system to store and manage records and reports submitted by Licensee Operators.
- b. Data shall be used to monitor compliance, plan future infrastructure development, and improve regulatory processes.

PART 10 - TRANSITIONAL PROVISIONS

29. Transitional Arrangements

- a. Existing permits and approvals issued under previous Regulations shall remain valid until their expiration or renewal.

b. Licensee Operators shall comply with the provisions of this Regulation upon renewal of existing permits or issuance of new permits.

30. Phased Implementation

a. The Niger State Urban Development Board shall implement this Regulation in phases to ensure a smooth transition.

b. A detailed implementation plan shall be developed, specifying timelines and milestones for each phase.

PART 11 – MISCELLANEOUS PROVISIONS

31. Dispute Resolution

a. Any disputes arising from the implementation of this Regulation shall be resolved through arbitration before resorting to legal action.

b. All disputes raised by operators or stakeholders must be formally acknowledged by the Niger State Urban Development Board within 5 working days of receipt.

32. Acknowledgement of dispute

The Niger State Urban Development Board shall aim to resolve disputes within 30 days from the date of acknowledgment. Extensions may be granted only under exceptional circumstances, which must be communicated in writing to the disputing party.

33. Escalation Process

a. Disputes should first be addressed at the operational level between the parties involved.

b. If the dispute remains unresolved, the affected party may submit a formal written request for escalation to the Niger State Urban Development Board, including all relevant documentation and a summary of previous discussions.

c. The dispute shall be reviewed by an independent Arbitrator appointed for that purpose by the Niger State Urban Development Board, who shall provide a decision within 30 working days of receiving the escalation request.

d. If the parties cannot resolve the dispute through the Board's amicable dispute resolution process, either party may refer the matter to the Magistrate Court with jurisdiction.

e. The Magistrate Court shall issue a decision within a reasonable period after the hearing. The decision shall be final and binding on both parties, with court costs borne as determined by the court or as agreed upon by the parties.

34. Amendments and Revisions

a. This Regulation may be amended or revised by the Niger State Urban Development Board as necessary to address emerging issues or improve implementation.

b. Stakeholders shall be consulted during the amendment process.

35. Severability

If any provision of this Regulation is found to be invalid or unenforceable, the remaining provisions shall continue in full force and effect.

ISSUED UNDER MY HAND THIS ^{30th} DAY OF ^{DEC.}, 2024, EFFECTIVE IMMEDIATELY.



RT. HON. UMARU MOHAMMED BAGO
Governor, Niger State