

KOGI STATE GOVERNMENT

KOGI STATE UTILITY INFRASTRUCTURE MANAGEMENT AND COMPLIANCE AGENCY (KUIMCA)

REGULATIONS FOR USE OF KOGI STATE RIGHT OF WAY FOR DEPLOYMENT OF UTILITY INFRASTRUCTURE

CLASS A- COMMUNICATIONS INFRASTRUCTURE

December 31, 2023

PART I— Preamble

- 1 Kogi State Utility Infrastructure Management and Compliance Agency is a 'one-stop shop' Agency saddled with statutory responsibilities to monitor, control, issue permit and approvals and ensure compliance with the State Laws and Regulations regarding the use of Kogi State public spaces , setbacks and right of way for deployment of utility infrastructure
- 2 Therefore, by virtue of:

- Clause 24 of the Kogi State Utility Infrastructure Management and Compliance Agency Law, 2018

1. No person, corporation, partnership or body shall:

- (a) construct, develop, erect, excavate, haul, hoist, install, modify, or lay any utility infrastructure in any public or private space within the State without the prior written approval or permit from the Agency
- (b) engage in any development of utility infrastructure, use of right of way or decommission any existing Utility Infrastructure without first obtaining the required permit from the Agency

- And Clause 35 of Kogi State Utility Infrastructure Management and Compliance Agency Law, 2018;

- (1) The owner of any utility infrastructure shall exercise adequate care, install devices and provide methods for preventing failures and accidents which are likely to cause damages , injuries or nuisance to the public including its staff.
- (2) The owner or operator of any utility infrastructure shall be required to carry out installations and other equipment maintenance in compliance with the requirements of the safety codes of the State and Federal Laws in such manner that will not interfere with the use of another person's property or any private space.
- (3) All maintenance erection of Utility Infrastructure including their support structures shall be performed by duly qualified construction personnel.
- (4) All utility infrastructure shall maintain compliance with current RF emission standards under the Nigerian Communications Commission Act.

- 3 And in line with clause 135 of Nigerian Communications Act, 2003], a licensee operator under this abovementioned 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.
- 4 In the application of the above-mentioned clauses of Kogi State Utility Infrastructure Management and Compliance Agency Law, 2018; clause 135 of Nigerian Communications Act, 2003 and in the exercise of its powers over the Rights of Way (RoW) within Kogi State , the Kogi State Utility Infrastructure Management and Compliance Agency (KUIMCA) receives applications or requests for approval for installation, placing, installing or maintenance of any telecommunications network facilities from any licensee operator;
 - 5 KUIMCA may impose a lump sum fee in the maximum limit of NGN5,000 per meter (for Right of Way Permit) and NGN1,000,000 per site (for Build Permit) in the exercise of the powers it holds in virtue of the Kogi State Utility Infrastructure Management and Compliance Agency Law, 2018 the installation, placing, laying or maintenance of the Network Facilities;
 - 6 No other Ministry, Department or Agency of Kogi State 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

- 7 Application shall be made to Kogi State Utility Infrastructure Management and Compliance Agency 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 Kogi 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.

APPLICATION FOR BUILD PERMIT

Application shall be made to Kogi State Utility Infrastructure Management and Compliance Agency for granting of permit to install base transceiver station (BTS) or any other telecommunication infrastructure by the Licensee operator clearly stating the purpose and location of such proposed installation. The application is accompanied by the following:

- a. The address and location of the proposed development
 - b. Two (2) copies of the structural (engineering) drawings of the proposed development detailing the height of the proposed development, the ancillaries and their dimensions
 - c. Two (2) copies of the Soil Test Report carried out on the proposed site
 - d. Evidence of ownership of the parcel of land on which the proposed project is to be installed. Where the applicant is not the owner of the land, then a written consent of the owner shall be attached to the application.
 - e. A schedule of work showing possible date of commencement and envisaged duration of the proposed project
- 8 In addition to the requirements specified in clause 7 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 Law/Act, a copy of such EIA Report and Approval shall be attached to the Application.
- 9 KUIMCA 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.
- 10 Where the Application is satisfactory (and/or where the Applicant has made good any deficiency in the application), KUIMCA 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 seven (7) days of receipt of the invoice.
 - 11 Where the Licensee operator fails make the invoiced payment within the seven (7) days of receipt of the invoice, the application shall be deemed to have been terminated and the Licensee operator shall bear all cost incurred by the Agency.
 - 12 Where there is any need for physical inspection and/or joint measurements, KUIMCA shall inform the Applicant and schedule a date for the inspection.
 - 13 Applications for RoW shall be granted by KUIMCA 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.
 - 14 Where KUIMCA 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.
 - 15 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 Section 14 of this Regulation
 - b) Where the grant of the RoW will be in contravention of the Dig-Once Policy specified of the State,
 - c) Where the installation of the proposed infrastructure will be in contravention of the State Town Planning Laws and Regulations,
 - d) Where the Nigerian Communications Commission notifies KUIMCA 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.
 - e) 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.
 - f) 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.
 - 16 If the application is not approved after Forty -Five (45) days from the date the application is received, KUIMCA shall provide the licensee operator a written statement identifying the reasons for its failure to approve such Application.
 - 17 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, KUIMCA make the granting of the RoW conditional on the licensee operator carrying out such works, such as installation of additional ducts [which

may involve payment of additional fee not exceeding the current rate of obtaining right of way permit) 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 and made available to the Agency

- 18 Without prejudice to the provisions of the above clause 10, KUIMCA 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.
- 19 No licensee operator shall commence any work before the RoW grant is duly communicated to the licensee operator.
- 20 The granting of RoW on the public domain gives rise to the payment of fees which may not exceed:
 - a) NGN5,000 per linear metre for laying of ducts and cables, per kilometre and per artery
 - b) NGN1,000, 000 per site for Base transceiver station (BTS).
 - c) NGN70,000 per m2 occupied on the ground for other installations such as street cabinets intended to house the technical installations for serving subscribers.
 - d) In addition to the above, each application shall be accompanied with evidence of payment of NGN20,000 as Application and Processing Fee by the Applicant.

However, the Agency, considering factors such economic indices, ease of doing business, security, broadband penetration etc, may consider downward review of the applicable fees as it deemed fit.

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

- 21 An Applicant that has been granted a RoW/Build Permit shall provide KUIMCA with a copy of the “As Laid” or “As Built” drawing (as appropriate) for each approval to guide the competent authorities in future rehabilitation, expansion and maintenance work on the public domain.
- 22 The As-Laid/ As Built 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 BTS
 - Type and depth of foundation
 - Height of the tower
 - As Built diagrams of all the equipment installations, conduits, wiring, fencing, steel components and load capacity of the tower
 - Pictures of the completed infrastructure showing front, sides and rear views

- 23 On completion of the works, the Applicant shall notify KUIMCA in writing and obtain the appropriate completion certificate/final permit from the Agency.
- 24 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

- 25 The breach of this Regulation shall be punishable by any of the following:
 - a) Fines up to NGN50,000 for each day such breach persists.
 - b) Suspension of RoW
 - c) Termination of RoW

Part 6 – Miscellaneous provisions

- 26 This Regulation may be cited as Regulation for the Use of Kogi State Right of Way for Deployment of Utility Infrastructure (Class A- Communications Infrastructure) and comes into effect on 31st December, 2023

