

The Indian Telegraph Right of Way Rules, 2016

UNION OF INDIA

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Rule THE-INDIAN-TELEGRAPH-RIGHT-OF-WAY-RULES-2016 of 2016

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The Indian Telegraph Right of Way Rules, 2016 Published vide Notification No. G.S.R. 1070(E), dated 15th November, 2016 Ministry of Communications (Department of Telecommunications) G.S.R. 1070(E). - In exercise of the powers conferred by sub-section (1) and clause (e) of sub-section (2) of section 7 read with sections 10, 12 and 15 of the Indian Telegraph Act, 1885 (13 of 1885), the Central Government hereby makes the following rules to regulate underground infrastructure (optical fibre) and overground infrastructure (mobile towers), namely:-

Chapter I Preliminary

1. Short title and commencement.

(1) These rules may be called the Indian Telegraph Right of Way Rules, 2016. (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1) In these rules, unless the context otherwise requires,- (a) "Act" means the Indian Telegraph Act, 1885 (13 of 1885); (b) "appropriate authority" means the Central Government, respective State Governments, local authority or such authority, body, company or institution incorporated or established by the Central Government or the State Government, in respect of property, under, over, along, across, in or upon which underground or overground telegraph infrastructure, is to be established or maintained, vested in, or under, the control or management of such appropriate authority; (c) "State Government" means the State Government having jurisdiction, and includes the administration of a Union territory; (d) "licensee" means any person holding a license issued under sub-section (1) of section 4 of the Act; (e) "overground telegraph infrastructure" means a telegraph or

a telegraph line established over the ground and includes posts or other above ground contrivances, appliances and apparatus for the purpose of establishment or maintenance of the telegraph or the telegraph line;(f)"rule" means the Indian Telegraph Right of Way Rules, 2016.(g)"underground telegraph infrastructure" means a telegraph line laid under the ground and includes manholes, marker stones, appliances and apparatus for the purposes of establishment or maintenance of the telegraph line.(2)Words and expressions used and not defined herein but defined in the Act shall have the meaning assigned to them in the Act.

3. Applicability.

- The appropriate authority shall exercise the powers under these rules on an application for establishment and maintenance of underground or overground telegraph infrastructure by any licensee on whom the powers of the telegraph authority have been conferred by notification under section 19B of the Act, subject to any conditions and restrictions as may be imposed in such notification.

4. Nodal officer to be designated by local authority, etc.

(1)Every appropriate authority shall designate a nodal officer for the purposes of these rules.(2)The appropriate authority shall develop an electronic application process within a period of one year from the date of coming into force of these rules for submission of applications:Provided that the State Government may at its discretion establish a single electronic application process for all appropriate authorities under its control.

Chapter II

Establishment and Maintenance of Underground Telegraph Infrastructure

5. Application by a licensee.

(1)A licensee shall, for the purposes of establishment of telegraph infrastructure under any immovable property vested in or under the control or management of any appropriate authority, make an application, supported by such documents, to that authority in such form and manner as may be specified by that appropriate authority.(2)The information along with supporting documents to be provided by the licensee in the application made under sub-rule (1) shall include(i)a copy of the license granted by the Central Government;(ii)the details of underground telegraph infrastructure proposed to be laid;(iii)the mode of and the time duration for, execution of the work;(iv)the time of the day when the work is expected to be done in case the licensee expects the work to be done during specific time of the day;(v)the details of expenses that such appropriate authority will necessarily be put in consequence of the work proposed to be undertaken by the licensee;(vi)the inconvenience that is likely to be caused to the public and the specific measures proposed to be taken to mitigate such inconvenience;(vii)the specific measures proposed to be taken

to ensure public safety during the execution of the work;(viii)any other matter relevant, in the opinion of the licensee, connected with or relative to the work proposed to be undertaken; and(ix)any other matter connected with or related to the work as may be specified, through a general or special order, by the Central Government or appropriate State Government or appropriate local authority:Provided that the licensee shall, while making the application, give a specific commitment on whether he undertakes to discharge the responsibility for restoration, to the extent reasonable and prudent, of the damage that the appropriate authority shall necessarily be put in consequence of the work proposed to be undertaken.(3)Every application under sub-rule (1) shall be accompanied with such fee to meet administrative expenses for examination of the application and the proposed work as the appropriate authority may, by general order, deem fit:Provided that such fee to meet administrative expenses shall not exceed one thousand rupees per kilometer.

6. Grant of permission by appropriate authority.

(1)The appropriate authority shall examine the application with respect to the following parameters, namely:-(a)the route planned for the proposed underground telegraph infrastructure and the possible interference, either in the establishment or maintenance of such telegraph infrastructure, with any other public infrastructure that may have been laid along the proposed route;(b)the mode of execution;(c)the time duration for execution of the work and the time of the day that the work is proposed to be executed;(d)the estimation of expenses that the appropriate authority shall necessarily be put in consequence of the work proposed to be undertaken;(e)the responsibility for restoration of any damage that the appropriate authority may necessarily be put in consequence of the work proposed to be undertaken;(f)assessment of measures to ensure public safety and inconvenience that the public is likely to be put to in consequence of the work proposed and the measures to mitigate such inconvenience indicated by the licensee;(g)any other matter, consistent with the provisions of the Act and these rules, connected with or relative to the establishment or maintenance of underground telegraph infrastructure, through a general or special order, by the Central Government, appropriate State Government or the appropriate local authority.(2)The appropriate authority shall within a period not exceeding sixty days from the date of application made under rule 5-(a)grant permission on such conditions including, but not limited to, the time, mode of execution, measures to mitigate public inconvenience or enhance public safety and payment of restoration charge, as may be specified, subject to the provisions of the Act and these rules; or(b)reject the application for reasons to be recorded in writing:Provided that no application shall be rejected unless the applicant licensee has been given an opportunity of being heard on the reasons for such rejection:Provided further that the permission shall be deemed to have been granted if the appropriate authority fails to either grant permission under (a) or reject the application under (b); and the same shall be communicated in writing to the applicant not later than five working days after permission is deemed to have been granted.(3)Where the appropriate authority accepts the undertaking by the licensee to discharge the responsibility to restore the damage that such appropriate authority shall necessarily be put in consequence of the work, the appropriate authority, while granting permission under clause (a) of sub-rule (2), may seek a bank guarantee for an amount in lieu of expenses for restoration of such damage, as security for performance in the discharge of the responsibility.(4)The appropriate authority shall not charge any fee other than those prescribed under sub-rule (3) of rule 5 and clause (a) of sub-rule (2) from the

licensee for establishing underground telegraph infrastructure.

7. Obligations of licensee in undertaking work.

(1)The licensee shall make the payment of expenses or submit the bank guarantee as determined by the appropriate authority within a period of thirty days from the date of grant of permission and prior to the commencement of work of laying the underground telegraph infrastructure:Provided that the appropriate authority may, at its discretion, extend the said period for payment of expenses or submission of bank guarantee on an application made by the licensee seeking such extension.(2)The licensee shall ensure that -(a)prior to the commencement of work of laying the underground telegraph infrastructure and at all times during the execution of work, the measures to mitigate public inconvenience and provide for public safety are implemented; and(b)the work of laying underground telegraph infrastructure is carried out in accordance with the conditions specified in the grant of permission by the appropriate authority.(3)The licensee shall ensure provision of positional intelligence, through appropriate technology, of all underground telegraph infrastructures to enable the appropriate authority to obtain real time information on its location.

8. Powers of appropriate authority to supervise the work.

(1)The appropriate authority may supervise the execution of work to ascertain if the conditions imposed in the grant of permission under clause (a) of sub-rule (2) of rule 6 are observed by the licensee.(2)The appropriate authority may, on the basis of such supervision, impose such other reasonable conditions as it may think fit.(3)If the appropriate authority comes to the conclusion that the licensee has willfully violated any of the conditions for grant of permission under clause (a) of sub-rule(2) of rule 6, it may forfeit, in full or in part, the bank guarantee submitted by the licensee and withdraw the permission granted to the licensee, for reasons to be recorded in writing:Provided that no action shall be taken under this sub-rule unless the licensee has been given an opportunity of being heard.

Chapter III

Establishment of Overground Telegraph Infrastructure

9. Application by a licensee.

(1)A licensee shall, for the purposes of establishing overground telegraph infrastructure, upon any immoveable property vested in or under the control or management of any appropriate authority, make an application, supported by such documents, to that appropriate authority in such form and manner as may be specified by that appropriate authority.(2)The information along with supporting documents to be provided by the licensee in the application made under sub-rule(1) shall include-(i)a copy of the license granted by the Central Government;(ii)the nature and location, including exact latitude and longitude, of post or other above round contrivances proposed to be established;(iii)the extent of land required for establishment of the overground telegraph infrastructure;(iv)the details of the building or structure, where the establishment of the overground

telegraph infrastructure, is proposed;(v)the copy of approval issued by the duly authorized officer of the Central Government for location of the above ground contrivances proposed to be used for the transmission of Radio waves or Hertzian waves;(vi)the mode of and the time duration for, execution of the work;(vii)the inconvenience that is likely to be caused to the public and the specific measures proposed to be taken to mitigate such inconvenience;(viii)the measures proposed to be taken to ensure public safety during the execution of the work;(ix)the detailed technical design and drawings of the post or other above ground contrivances;(x)certification of the technical design by a structural engineer attesting to the structural safety, of the overground telegraph infrastructure;(xi)certification, by a structural engineer, attesting to the structural safety of the building, where the post or other above ground contrivances is proposed to be established on a building;(xii)the names and contact details of the employees of the licensee for the purposes of communication in regard to the application made;(xiii)any other matter relevant, in the opinion of the licensee, connected with or relative to the work proposed to be undertaken; and(xiv)any other matter connected with or relevant to the work as may be specified, through a general or special order, by the Central Government or appropriate State Government or appropriate local authority.(3)Every application under sub-rule (1) shall be accompanied with such fee to meet administrative expenses for examination of the application and the proposed work as the appropriate authority may, by general order, deem fit:Provided that the one-time fee, to meet administrative expenses, accompanying every application shall not exceed ten thousand rupees.

10. Grant of permission by appropriate authority.

(1)The appropriate authority shall examine the application with respect to the following parameters, namely:-(a)the extent of land required for the overground telegraph infrastructure;(b)the location proposed;(c)the approval issued by the duly authorized officer of the Central Government for location of the above ground contrivances proposed to be used for transmission of Radio waves or Hertzian waves;(d)the mode of and time duration for execution of the work;(e)the estimation of expenses that the appropriate authority shall necessarily be put in consequence of the work proposed to be undertaken;(f)assessment of the inconvenience that the public is likely to be put to in consequence of the establishment or maintenance of the overground telegraph infrastructure, and the measures to mitigate such inconvenience indicated by the licensee;(g)certification of the technical design by a structural engineer attesting to the structural safety of the overground telegraph infrastructure;(h)certification, by a structural engineer, of the structural safety of the building on which the post or other above ground contrivances is proposed to be established;(i)any other matter, consistent with the provision of the Act and these rules, connected with or related to the laying of overground telegraph infrastructure, through a general or special order or guidelines by the Central Government, appropriate State Government or the appropriate local authority:(2)Where the establishment of the overground telegraph infrastructure renders the immovable property, vested in the control or management of any appropriate authority over which such overground telegraph infrastructure is established, unlikely to be used for any other purpose, the appropriate authority shall be entitled to compensation for the value of the immovable property, either once or annually, assessed on such rates as that appropriate authority may, by general order, specify.(3)The appropriate authority shall, within a period not exceeding sixty days from the date of application made under rule 9 -(a)grant permission on such conditions including, but not limited to, the time,

mode of execution, measures to mitigate public inconvenience or enhance public safety or structural safety and payment of restoration charge or compensation, subject to the provisions of the Act and these rules; or (b) reject the application for reasons to be recorded in writing: Provided that no application shall be rejected unless the applicant licensee has been given an opportunity of being heard on the reasons for such rejection: Provided further that the permission shall be deemed to have been granted if the appropriate authority fails to either grant permission under clause (a) or reject the application under clause (b) and the same shall be communicated in writing to the applicant not later than five working days after permission is deemed to have been granted. (4) The appropriate authority shall not charge any fee other than those mentioned under sub-rule (3) of rule 9 and clause (a) of sub-rule (3) from the licensee for establishing overground telegraph infrastructure.

11. Obligations of licensee in undertaking work.

(1) The licensee shall ensure that - (a) prior to the commencement of establishment and maintenance of overground telegraph infrastructure and at all times, the measures to mitigate public inconvenience and ensure public safety, including structural safety of such overground telegraph infrastructure are implemented; (b) the work of establishment and maintenance of overground telegraph infrastructure is carried out in accordance with the conditions specified in the grant of permission by the appropriate authority.

12. Powers of appropriate authority to supervise the work.

(1) The appropriate authority may supervise the establishment and maintenance of overground telegraph infrastructure to ascertain if the conditions imposed in the grant of permission under clause (a) of sub-rule (3) of rule 10 are observed by the licensee. (2) The appropriate authority may, on the basis of such supervision, impose such other reasonable conditions, as it may think fit. (3) If the appropriate authority comes to the conclusion that the licensee has willfully violated any of the conditions for grant of permission under clause (a) of sub-rule (3) of rule 10, it may withdraw, for reasons to be recorded in writing, the permission granted to the licensee: Provided that no action shall be taken under this sub-rule unless the licensee has been given an opportunity of being heard.

Chapter IV

Right of Appropriate Authority to seek Removal of Underground or Overground Telegraph Infrastructure

13. Right of appropriate authority to seek removal, etc.

(1) Where the appropriate authority, having regard to circumstances which have arisen since the establishment of any underground or overground telegraph infrastructure under, over, along, across, in or upon, any immoveable property vested in or under the control or management of that appropriate authority, considers that it is necessary and expedient to remove or alter such telegraph

infrastructure, it shall issue a notice to the licensee, being the owner of such telegraph infrastructure, to remove or alter its location.(2)On receipt of the notice under sub-rule (1), the licensee shall, forthwith and within a period of thirty days, proceed to submit, to the appropriate authority, a detailed plan for removal or alteration of such telegraph infrastructure.(3)The appropriate authority shall, after examination of the detailed plan submitted by the licensee under sub-rule (2), pass such orders as it deems fit:Provided that the appropriate authority shall, having regard to emergent and expedient circumstances requiring the removal or alteration of such telegraph infrastructure, give a reasonable time of not less than ninety days to the licensee for removal or alteration of such telegraph infrastructure:Provided further that the responsibility and liability, including the cost thereof, for removal or alteration of such telegraph infrastructure shall be borne by the licensee.

Chapter V

Dispute Resolution

14. Disputes between licensee and appropriate authority.

(1)Any dispute arising between a licensee and the appropriate authority in consequence of these rules, shall be referred to the officer designated by the Central Government.(2)The Central Government shall, [* * *] [Omitted 'within a period of sixty days from the date of coming into force of these rules,' by Notification No. G.S.R. 407(E), dated 21.4.2017 (w.e.f. 15.11.2016).] designate, by notification, officers with such jurisdiction as may be mentioned in the notification, for the purpose to referring disputes under sub-rule (1).(3)The officer designated by the Central Government shall determine the disputes referred to in sub-rule (1) within a period not exceeding sixty days in such manner as may be specified by the Central Government from time to time.