

Decree No. ____ issued

Use of Public Properties by Licensed Telecommunications Service Providers

The President of the Republic,

Pursuant to the Constitution,

Pursuant to Law No. 431 of 2002 (the “Telecommunications Law”) and in particular Paragraph 3 of Article 35,

Based on the decision number 144/S dated 10 June 1925 related to public properties

Pursuant to the proposal of the Minister of Telecommunications, and

Based on consultation with relevant Government Departments (as defined below),

upon the advice of the Council of State

After the approval of the Council of Ministers (decision number _____) in a meeting held on _____,

Decrees as follows:

Chapter 1: Definitions

Article 1

In this Decree:

(1) “Covered Public Property” means the following public properties:

(a) ducts, conduits, pipes and similar fixtures to real property in which communications cables and equipment can be installed, including, without limitation, all such items now or hereafter managed, used or occupied by the Ministry of Telecommunications, OGERO, Electricité du Liban or any water authorities ;

(b) poles, masts, towers, rooftops, racks and similar installations on which communications cables, antennae and equipment can be installed, including, without limitation, all such items now or hereafter managed, used or occupied by the Ministry of Telecommunications, OGERO, MIC1, MIC2, Electricité du Liban, or the Ministry of Information;

(c) existing optical fiber cables within the facilities stated above administered and used by the Ministry of telecommunications, OGERO, Electricité du Liban and other public entities.

(d) public facilities for housing, servicing, accessing or using the foregoing items, including, without limitation, manholes, hand-holes, outbuildings, sheds, cabinets, equipment rooms, stairways, ladders, doors and hallways;

(e) Highways, streets, roads and parallel easements running alongside highways, streets and roads.

(2) “Government Department” means any

(a) ministry, authority or other government department including, without limitation, the Ministry of Telecommunications, the Ministry of Public Works and Transportation, the Ministry of Interior and Municipalities, the Ministry of Information, the Ministry of Water and Energy and all authorities and public entities under its guardianship in addition to all municipalities and unions of municipalities; or

(b) any successor public authority or public entity of the foregoing, or any private sector representative or contractor of or for the foregoing, that may assume administration or control of any Covered Public Property from time to time, whether through a change of roles or functions, a reorganization of Government Departments, the transfer of administration or control of any Covered Public Property from one Government Department to another, the issuance of a concession or making of a contract with a private sector concessionaire, or otherwise.

(3) “Permitted Uses” means to construct, install, operate, maintain and/or remove Telecommunications infrastructure, which may include the construction and installation of additional fixtures and properties of the types described in Articles 1(1)(a) through 1(1)(d) of this Decree, in order to provide Telecommunications Services using such infrastructure.

(4) If not otherwise defined, capitalized terms used herein have the meaning given in the Telecommunications Law including the Telecommunications Regulatory Authority and Service provider.

Chapter 2: Conditions of Use of the Covered Public properties

Article 2 In accordance with this Decree, Government Departments must on a non-discriminatory, first-come, first-served basis, make available to requesting licensed Service Providers all Covered Public Property under their administration or control for Permitted Uses, and such Service Providers will have the right to enter, use, occupy and, when necessary, disturb and restore or permanently alter the appearance and specifications

of such property. Any permanent alteration must not obstruct the use of the Covered Public Property for its intended purpose and will remain at all times public property .

Article 3

A Service Provider must obtain the approval of the relevant Government Department with respect to any particular Permitted Uses of any particular Covered Public Property in accordance with this Decree before engaging in such Permitted Uses of such Covered Public Property.

Article 4

A licensed Service Provider's right to engage in Permitted Uses of Covered Public Property will continue from the date the relevant Government Department's approval is effective for so long as such Service Provider holds a license under the Telecommunications Law that permits it to install and operate the Telecommunications infrastructure located on the Covered Public Property, unless the Service Provider completes or abandons the Permitted Use earlier or the relevant Government Department has a good reason for setting a shorter term for the Permitted Use provided that such reasons relate to any of the following circumstances :

- a) The Government Department intends to allocate the Covered Public Property for the use of the general public or for the provision of a public service; or
- b) The occurrence of any of the circumstances listed in article 18 (b) to 18 (f) of this Decree.

Article 5

A licensed Service Provider who lawfully and according to this decree installs any fixtures or permanent improvements to Covered Public Property will enjoy the right to use such fixtures or improvements, and to receive all rents and charges from other Service Providers for the use thereof, during the term of its Permitted Use only but not thereafter. Such Service Provider's right to use such fixtures and improvements, and the Covered Public Property to which they are affixed, is also subject to:

- (a) any rights or obligations of the Government Department administering the relevant Covered Public Property to permit other Service Providers to enter, use, occupy, disturb and restore or alter such public property, and
- (b) any obligations of the Service Provider under Article 36(2) of the Telecommunications Law or otherwise to allow other Service Providers shared use of such fixtures and permanent improvements.

Article 6

The relevant Government Department's approval of fixtures and permanent improvements must be subject to the condition that the Service Provider will affix such fixtures and make such improvements in a manner that does not unnecessarily or maliciously prevent or impair the sharing of the Covered Public Property with other Service Providers.

Article 7

All moveable property or tangible personal property owned by a Service Provider and located on Covered Public Property for a valid Permitted Use will at all times remain private property of the Service Provider, and, upon cessation of its Permitted Use of Covered Public Property or at such earlier time as it chooses or is otherwise lawfully required to do so, the Service Provider will at its own cost remove all such items and restore the Covered Public Property to its original condition.

Article 8

A Service Provider entering, using or occupying Covered Public Property must:

(a) as required by the relevant Government Department, provide insurance coverage and indemnification against all perils including injury or death of natural persons and damage to the Covered Public Property and any other relevant property arising from the actions, including, without limitation, negligence or fault, of the Service Provider; and

(b) comply with all necessary terms and conditions established or enforced by the relevant Government Department, including, without limitation, requirements for certificates of insurance, performance bonds, and/or other financial instruments

Article 9

To the extent any Covered Public Property described in Articles 1(1)(a) through 1(1)(d) of this Decree runs, lies or is situated in, under or above any private property, the Permitted Uses granted to a licensed Service Provider by the relevant Government Department will include the right for such Service Provider to use and occupy such Covered Public Property to the fullest extent permitted by the easement or other rights granted by the owner of such private property to the Republic of Lebanon, the relevant municipality or the relevant public entity or body, but the Service Provider engaging or proposing to engage in a Permitted Use of such Covered Public Property is responsible for obtaining, and paying any additional compensation due to the owner for, any additional easements or other rights that may be required as between the Service Provider and the owner of such private property.

Article 10

If the relevant Government Department so requires, the Service Provider will at the end of the term of the Permitted Use promptly remove all fixtures and other permanent improvements installed by it on, in or under Covered Public Property at its own cost and restore the Covered Public Property to its original condition. A Government Department may only require removal of fixtures and permanent improvements installed below ground or below grade level, such as ducts, manholes and hand-holes, upon a finding that such removal is required for the planned future use of the relevant public property. Any fixtures and other permanent improvements not removed at the end of the term of the Permitted Use will be classified as public property subject to the authority and control of the relevant Government Department and without any compensation being due or payable to the Service Provider that installed such fixtures or improvements.

Chapter 3: Procedures for Requests for Information and approval of Permitted Uses

Article 11

A licensed Service Provider may at any time request from a Government Department information about Covered Public Properties for a potential Permitted Use of Covered Public Properties if it provides proof that it is licensed to provide telecommunications services and a letter stating the purpose of the request. A licensed Service Provider may also at any time request approval of a Permitted Use from the relevant Government Department.

Article 12

To facilitate requests for information and Permitted Uses, and through a decision , in consultation with the relevant Government Departments, the TRA will issue a list of Government Departments administering Covered Public Property, including the types of Covered Public Property they generally administer, which such Covered Public Property the TRA has designated as priority for Permitted Uses, and such other information as the TRA deems necessary or useful. The TRA will make this list publically available and will notify the relevant Government Departments of their inclusion on such list from time to time.

Article 13

Within 90 days after the TRA has notified a Government Department under Article 12 that it has been listed as administering any Covered Public Property designated by the TRA as priority for Permitted Uses, such Government Department must , prepare, and make available for use by licensed Service Providers:

- (a) route and location maps and related records for all Covered Public Property administered by such Government Department, which maps and records must show, to the extent such information is available or readily ascertainable, the routes or

locations, access points and size of all ducts, poles and towers, the identity of all existing users and the nature of existing uses, the capacity used and remaining, and any other pertinent information;

(b) procedures and fee schedules for obtaining copies of or access to the maps and records described in Article 13(a) of this Decree;

(c) procedures, instructions and fee schedules for requesting approval of Permitted Uses of Covered Public Property and a request form which may require the applying Service Provider to provide all necessary information for the relevant Government Department to evaluate the request, including, without limitation:

- (i) the proposed Permitted Use;
- (ii) detailed technical information and project plans regarding the proposed construction, installation and operation of any fixtures, improvements or equipment including additional technical studies that may be required by the relevant government department to make sure that the public property can support such fixtures;
- (iii) information regarding the feasibility of sharing Permitted Use of the Covered Public Property with other Service Providers;
- (iv) the organization of and schedule for any works to be carried out and their expected duration;
- (v) the name, contact information and qualifications of the individuals responsible for managing the construction project; and
- (vi) the name, contact information and qualifications of the individuals responsible for managing safety both during construction and afterwards; and

(d) technical and legal terms and conditions applicable to the Permitted Uses of Covered Public Property administered by it, including, without limitation, those applicable to designs and specifications, installation, repair, operations and maintenance, disconnection, security and safety, interconnection points, reservation of capacity for future use, insurance, bonds, deposits, inspections, and indemnities.

All the above information should be permanently updated and a copy should be handed to the TRA when necessary or upon request.

Article 14

Where a Government Department believes the disclosure to a Service Provider of the information referred to in Article 13(a) is likely to result in a threat to national security, such Government Department should refer to the Council of Ministers for guidance as to any procedures that may be

necessary to mitigate the threat, such as limiting disclosure of sensitive information.

Article 15

To initiate a request for any Permitted Use of any Covered Public Property, a licensed Service Provider must first submit all relevant information using the request form supplied by the relevant Government Department. The Government Departments may elect to use the form attached in annex B as their form and which Service Providers may use if a relevant Government Department has not supplied a request form.

Article 16

The fact that

(a) the TRA has not listed a particular Government Department as administering Covered Public Property under Article 12 of this Decree,

(b) the TRA has not designated any Covered Public Property as priority for Permitted Uses, and/or

(c) a Government Department has not taken the steps set forth in Article 13 of this Decree

will not be a valid reason for any Government Department to refuse or ignore, or delay the approval of, a request from a licensed Service Provider under Article 12 of this Decree.

Article 17

Each Government Department must use reasonable efforts to provide all information reasonably and duly requested by any licensed Service Provider under Article 11 of this Decree regarding the availability of any Covered Public Property for Permitted Uses and to identify alternatives under its control if any requested Covered Public Property is not available. In case where the information is incomplete or missing, the relevant government department may request service provider to conduct a survey on his cost under its supervision to complete the information and/or to ensure its rightness.

Article 18

A Government Department may only deny a licensed Service Provider's request for a Permitted Use of Covered Public Property that otherwise complies with the terms, conditions and requirements of this Decree for (a) insufficient capacity, (b) national security reasons, (c) safety reasons, (d) environmental reasons, (e) demonstrably adverse impact on Covered Public Property of historical or religious significance, or (f) demonstrably adverse impact on the existing uses. Where the Government Department believes a request should be denied as submitted but that alterations to the request might address its objections, it must promptly so inform the Service Provider in writing and work with the Service Provider to reach a mutually acceptable alternative. Whenever a Government Department formally denies a request, it must set out the complete rationale in writing delivered

to the TRA and requesting Service Provider.

Article 19

A relevant Government Department that, pursuant to Article 11 of this Decree, receives a formal request from a licensed Service Provider for information or for a Permitted Use must provide a written response to the requesting Service Provider within one month after receipt of the formal request. Where a Service Provider is planning extensive works on Covered Public Property, the Service Provider and the relevant Government Departments will cooperate prior to and after the formal submission by the Service Provider of its request(s) for Permitted Uses with the objective of defining a mutually acceptable and feasible project implementation plan and timetable. This planning process will take account of all relevant factors, including, without limitation, coordinating the Service Provider's requested works with those planned by the Government Department and others, avoiding disruptions to existing uses of the Covered Public Property, minimizing costs of repetitive works and duplicative infrastructure, expediting the processing and approval of the Service Provider request(s), and otherwise preserving public order and minimizing the adverse impact of Permitted Uses.

Article 20

Any Government Department that administers highways, streets or roads in or under which ducts or other Covered Public Property fixtures or permanent improvements are, or are proposed to be located, may not deny a request to dig or perform other works for the sole reason that such digging or works will disturb the surface of the highway, street or road, but may apply conditions to an approval of such a request in order to minimize the level of disturbance. Without limiting the foregoing, the conditions on road works imposed by a relevant Government Department may include delaying commencement of the works, to the extent they involve disturbance of recently resurfaced roads, plazas, walks or other landscaping, for a period up to but not later than one year after such resurfacing was completed, and requiring that such works be scheduled in accordance with the Government Department's work plan adopted following the rules and procedures set by law and regulations in force.

Article 21

A relevant Government Department that receives a request from a licensed Service Provider for temporary closure of lanes or passage on a highway, street or road under, over or along which works are to be undertaken for a Permitted Use will reasonably cooperate with such request on a non-discriminatory basis, affording the same prioritization for such activity as such Government Department affords similar public works undertaken by the public sector.

Article 22

The TRA and all relevant Government Departments must confer regularly regarding the implementation and enforcement of this Decree and if needed create joint taskforces and committees, and in particular must consider and implement ways to coordinate the processing and

implementation of requests by more than one Service Provider for similar or related Permitted Uses of the same Covered Public Property, or related requests from a Service Provider made to more than one Governmental Department, with a view to:

- (a) minimizing disputes;
- (b) avoiding disruptions to existing uses of the Covered Public Property;
- (c) minimizing costs of repetitive works and duplicative infrastructure, including the imposition of conditions that facilitate joint use of fixtures and permanent improvements by multiple Service Providers;
- (d) expediting the processing and approval of Service Provider requests to ensure efficient and rapid deployment of alternative Telecommunications infrastructure and Networks in the Republic of Lebanon; and
- (e) otherwise preserving public order, achieving the objectives of the TRA and the other Government Departments, and minimizing the adverse impact of Permitted Uses on the environment, quality of life and the operation of government and business.

Chapter 4: Basis for Allocation of Charges, Compensations and Fees

Article 23

All charges, compensations and fees assessed, levied or charged by Government Departments to Service Providers for matters covered by this Decree must be reasonable and non-discriminatory among all Service Providers, and in particular no Service Provider, whether owned entirely, in part or not at all by the Republic of Lebanon, should be required to pay any charge, compensation or fee for any service or for any Permitted Use of covered Public Property unless all Service Providers are required to pay similarly for such service or Permitted Use. Such charges, compensations and fees must be paid yearly and in advance.

Article 24

Government Departments may charge Service Providers, as a service fee, for the actual or average administrative costs resulting from: (i) maintaining information databases (such as maps) to facilitate Permitted Uses of Covered Public Property, (ii) processing requests for information on available Covered Public Property, (iii) processing applications for Permitted Uses of Covered Public Property, and (iv) overseeing and administering the public interest in cases where a Service Provider has been granted permission to engage in Permitted Uses of Covered Public Property.

Article 25

Government Departments may charge Service Providers for their actual or average incremental costs of maintaining Covered Public Property to the extent such costs result from Permitted Uses.

Article 26

Government Departments may charge Service Providers for Permitted Uses of Covered Public Property a pro rata share (based on the percentage of total capacity used or occupied) of capital improvements (such as ducts, fixtures, optical fiber cables and other permanent improvements) to such Covered Public Property on the basis of the cost of the improvements. The annual recoverable costs are equal to all annual carrying costs for the capital improvements, including an allocation of the annual amortization of the capital costs plus annual operating expenses. Cost allocations should amortize or depreciate the capital improvements over their useful life up to a maximum of 20 years (which is the longest permitted term, prior to renewal, for a Service Provider License under the Telecommunications Law).

Article 27

The goal of the charges authorized under Articles 24 through 26 is to permit each relevant Government Department to recover from each relevant Service Provider:

- (a) a portion of the carrying costs of any shared infrastructure (including both an amortization of capital costs and a pass through of operating expenses) equal to the portion of such infrastructure used by the such Service Provider; plus
- (b) a reasonable apportionment of such Government Department's incremental costs of complying with this Decree.

Article 28

The relevant Government Department may charge for Permitted Uses of public rights of way included in Covered Public Property. Such Government Department must ensure that such charges do not exceed an amount that is consistent with the value and location of the land.

Article 29

Annex A sets out the initial parameters to be applied by Government Departments in setting a fair and reasonable allocation of charges, compensations and fees of the types described in Articles 24 through 26 and in setting fair and reasonable fees for use of rights of way by licensed Telecommunications Service Providers pursuant to Article 28 of this Decree. Government Departments must file with the TRA their standard charges, compensations and fees and the basis of their calculation. The TRA will from time to time, conduct periodic reviews of techniques and formulas adopted and change it following legal process in place.

Chapter 5 Enforcement, control and penalty

Article 30

the TRA, in consultation with the relevant Government Departments, may render decisions or promulgate regulations interpreting the Telecommunications Law and this Decree as they apply to Service Provider access to and use of Covered Public Property.

Article 31

the TRA may exercise such powers of control, inspection and enforcement as it deems reasonably necessary or appropriate to ensure compliance with this Decree.

Article 32

Each Government Department may conduct periodic inspections of Covered Public Property for purposes of ensuring compliance by all Service Providers using or occupying such Covered Public Property with the Telecommunications Law, this Decree and any other terms and conditions lawfully imposed by the Government Department or otherwise. In addition to being entitled to require the relevant Service Provider to remove any unauthorized facilities and/or to bring the same into compliance, the Government Department may assess any unpaid fees, charges and compensation, plus a penalty on such unpaid amounts up to [50%] of the unpaid amounts, and a penalty for each other violation not to exceed [one million Lebanese Pound] per violation. Moreover, the Government Department may also suspend or revoke an authorization to use a Covered Public Property where it can evidence a major fault or repeated breaches or violations of the terms and conditions of use of such Covered Public Property

Chapter 7: Delays and refusal of demands and mediation

Article 33

If a relevant Government Department (i) denies a request for information or for approval of a Permitted Use duly made under Article 11 of this Decree, (ii) does not respond to such a request within one month, or (iii) approves such a request on terms and conditions that are not acceptable to the requesting Service Provider, then:

- (a) within one month after the date of the denial, date of expiry of the initial month allowed for approval or denial or date of the unacceptable approval, as the case may be, the requesting Service Provider must submit to the TRA a copy of the request submitted to the relevant Government Department, any response received and any other correspondence exchanged;

(b) the TRA may in such manner as it considers necessary or useful convene meetings with and request further information from the Service Provider, the relevant Government Department or both in order to:

- (i) understand the reasons of the Service Provider for the request and of the Government Department for its response or non-response;
- (ii) assist the relevant Government Department and the Service Provider in determining a mutually acceptable solution; and
- (iii) if necessary or useful, recommend a solution;

(c) if no mutually acceptable solution is agreed within 90 days, the TRA will submit to the Council of Ministers a report setting out its account of the dispute and its opinion regarding the appropriate resolution of the matter; and

(d) the Council of Ministers will consider the opinion of the TRA and any submission of the relevant Government Department and make a final decision under Article 35(2) of the Telecommunications Law.

Article 34

If the relevant Government Department is unable to provide approval on acceptable terms and conditions within one month after the formal submission of a request for a Permitted Use due to (i) the size, scale and nature of the construction project, (ii) the period of time proposed by the Service Provider to complete the project, (iii) coordination with other requests for similar projects from other Service Providers, (iv) other works already planned or ongoing on the relevant Covered Public Property, or other considerations such as environmental issues or historical or architectural considerations, then the TRA's interventions under Article 33(2) of this Decree will take these factors into account.

Chapter 7: Various transitional provisions

Article 35

This Decree is to be liberally construed to permit shared use of Covered Public Properties by existing and new licensed Service Providers to the greatest extent possible consistent with the other uses of such public properties so as to facilitate the development of a modern and competitive Telecommunications sector in Lebanon as contemplated in the Telecommunications Law.

Article 36

This Decree will be published and notified where needed.

Beirut __/__/2009

Issued by the President of the Republic _____ Baabda the _____

The President of the Council of Ministers

The Minister of Telecommunications

ANNEX A

Initial parameters for charges, compensations and fees

The following parameters are organized by reference to the relevant articles of the Decree:

Charges for Information and Applications for Permitted Use (Article 24)

Government Departments must establish separate categories of service fees for each of the following requests consistent with the following criteria:

- (1) Requests for information – must be at a fixed amount per request, which amount can be calculated by reference to a table based on the amount and type of information requested.
- (2) Applications for Permitted Use – must be at a fixed amount per request, which amount can be calculated by reference to a table based on the application processing (exclusive of other fees set in this decree and payable to Government Departments), the types of activities involved in the works, and/or other relevant criteria for estimating the relative burden of the request on the Government Department.
- (3) Other charges listed under Article 24 – must be fixed on a fair and reasonable basis.

Charges for Incremental Costs (Article 25)

Government Departments must establish tables of one-time or annual fees for the incremental costs of activities incurred by them as a result of Permitted Uses of Covered Public Property. These costs do not include an allocation of costs the Government Department would otherwise incur notwithstanding the Permitted Use, but are limited to the additional costs caused by the Permitted Use. These costs may include such items as “make ready” costs, periodic inspection fees and increased operating expenses incurred by the Government Departments as a result of Permitted Uses.

Charges for Capital Improvements (Article 26)

Government Departments must use generally accepted cost-based accounting principles, consistently applied, to calculate the annual amortization of capital costs and annual operating expenses for Covered Public Property. The allocation of such amounts to Permitted Uses must be based on the percentage of total usable space within the relevant Covered Public Property actually used by the relevant Service Provider. In lieu of actual calculations for each specific item of Covered Public Property, Government Departments may develop average costs for classes of Covered Public Property and presumptions of the average percentage of usable space occupied by type of Permitted Use. Without limiting the foregoing, Government Departments may calculate costs related to capital improvements as follows:

(1) Ducts

In the case of installations of cable in ducts, Government Departments must develop annual carrying cost information per linear unit of duct for each size of duct and allocate a portion of such costs to Service Providers based on (i) the total volume of cable that may be installed in a particular size of duct and (ii) the portion of such volume occupied by a Service Provider, which may include an allocation of the carrying costs of non-usable space among all users and reflect a reasonable return on investment. The following formula shall be used:

$$\text{Annual rate for duct occupancy (per m)} = \text{Duct space factor} \times (\text{per unit cost}/20 + \text{operating expenses}) \times (1 + \text{ROI})$$

The terms used in the formula above have the following meanings:

Duct space factor = the percentage of the total duct capacity occupied by the service provider

Per unit cost = actual or current replacement cost of the duct system per linear meter of duct (amortized over a period of 20 years)

Operating expenses = costs of operating and maintaining the duct not attributable to the Permitted Use

ROI = Return on Investment initially set at 10%

(2) Poles and towers

In the case of attachments of cables, equipment aerials to poles and towers, the Government Departments must develop annual carrying cost information on a per pole basis for each standard size of pole and allocate a portion of such costs to Service Providers based on the total usable space for attachments to each pole and the percentage of such space occupied by a Service Provider (including the amount of space above and below such attachment required by applicable electrical and other safety codes and generally accepted practices for use of utility poles), and which may include an allocation of the carrying costs of non-usable space among all users and reflect a reasonable return on investment. The following formula shall be used:

Annual rate for pole attachments = Pole space factor x (pole cost/20 + operating expenses) x (1+ ROI)

The terms used in the formula above have the following meanings:

Pole space factor = the percentage of the total usable space (i.e., available for attachments) occupied by the service provider

Pole cost = actual or current replacement cost of the pole (amortized over a period of 20 years)

Operating expenses = costs of operating and maintaining the pole not attributable to the Permitted Use

ROI = Return on Investment initially set at 10%

A similar formula shall apply to occupancy of towers.

(3) Optical fiber cables

In the case of available fibers in a cable within a duct, Government Departments must develop annual carrying cost information per linear unit of cable (including the cost of building the duct) and allocate a portion of such costs to Service Providers based the portion of such volume occupied by a Service Provider, which reflect a reasonable return on investment. The following formula shall be used:

Annual rate for fiber usage (per m) = cable occupancy factor x [Annual rate for duct occupancy (per m)+ (per unit cost of cable/20 + operating expenses for the cable) x (1+ ROI)]

The terms used in the formula above have the following meanings:

Cable occupancy factor = the percentage of the total cable capacity occupied by the service provider

Annual rate for duct occupancy = cost of duct occupation as calculated under (1)

Per unit cost of the cable = actual or current replacement cost of the optical fiber cable per linear meter of cable (amortized over a period of 20 years)

Operating expenses = costs of operating and maintaining the cable not attributable to the Permitted Use

ROI = Return on Investment initially set at 10%

(4) Other

In the case of other facilities and improvements, Government Departments must develop annual carrying cost information on a case-by-case basis and allocate such costs to Service Providers on a basis consistent with the criteria set out in Article 28 of the Decree. Until such time as a Government Department is able to identify the actual cost, a similar formula as those used above for ducts and poles may be used.

Charges for Public Rights of Way (Article 30)

As compensation for use of rights of way, Government Departments may charge usage fees up to but not exceeding the following amounts:

(1) Above ground

In the case of above ground and aerial facilities (including poles, towers, and above-ground cables and aerials), Government Departments may charge an annual occupancy fee as follows:

ROW fees for installing a new pole or tower = 2% x Land value x (Area needed to install fixture like pole or tower)

The minimum area for a pole or tower is considered to be 1 square meter.

(2) Underground

In the case of underground facilities (mainly duct systems), Government Departments may charge an annual occupancy fee based on the following formula:

ROW fees for installing new duct system = 2% x Land value x (linear length of infrastructure x width) x Utilization factor

The terms used in the formulas above have the following meanings:

Width is assumed to be 1 meter unless it is larger, in which case the actual width is used

Land value is the value per square meter of the land as estimated by the Government Department, subject to the following ceilings:

- | | |
|-------------------------------|------------------------|
| - Beirut : | L.L. 150,000 – 200,000 |
| - Center of Muhafazat: | L.L. 112,500 – 150,000 |
| - Center of Kazza: | L.L. 75,000 – 112,500 |
| - National roads and highways | L.L. 37,500 – 75,000 |
| - Other places: | L.L. 1,500 – 37,500 |

Utilization factor is 10%

(3) Addition of new facilities

A Service Provider can add new facilities (e.g., ducts, poles, equipment, aerials) to previously installed facilities without having to pay any ROW fees as long as the new facilities do not result in a material extension of the originally authorized Permitted Use.