

Resolution #TC-2023-12-08

Authorizing CDOT to implement a simplified fee structure and improved process to facilitate access to CDOT rights of way for the deployment of broadband as mandated by Colorado Executive Order D-2022-0023 and Senate Bill 22-083.

Approved by the Transportation Commission on December 20, 2023.

WHEREAS, the Transportation Commission is responsible, pursuant to Section 43-1-106(8), C.R.S. for formulating the general policy with respect to the management, construction and maintenance of public highways and other transportation systems in the State; and

WHEREAS, pursuant to Colorado Executive Order D-2022-0023 and Senate Bill 21-083, codified as Section 43-1-1204(5)(b), C.R.S., the Colorado Department of Transportation (“CDOT”) must develop a uniform electronic application, permitting, contract, and fee structure to facilitate **non-government** entities' access to CDOT rights of way and fiber lease for the deployment of broadband; and

WHEREAS, Section 43-1-1206, C.R.S. authorized the Transportation Commission to adopt rules that it determines are necessary or appropriate to implement the Public-Private Initiatives Program Act, Sections 43-1-1021 through 43-1-1208, C.R.S.; and

WHEREAS, CDOT seeks to have the Transportation Commission approve the annual fee structure as shown in attachment “Exhibit A” which aligns with federal and state regulations; is consistent with other state department of transportation rates; and compensates CDOT for the operation and maintenance expenses incurred from allowing Public and Private entities to use CDOT rights of way (“ROW”); and

WHEREAS, CDOT seeks to have this approval apply to all new permits for **Public and Private** entities who desire to build fiber in CDOT ROW in an effort to implement a consistent, transparent, and standardized annual fee structure that encourages rural broadband deployment; and

WHEREAS, the Transportation Commission has reviewed the proposed fee structure, which includes all necessary information; and

WHEREAS the Transportation Commission, by this resolution, finds that the fee structure, the formula created for suggested rates, and the process improvements recommended will provide more efficient ROW access for the deployment of broadband; and

WHEREAS, the Transportation Commission determined that Section 43-1-1206, C.R.S. is permissive, not mandatory, and that rules are not necessary at this time to implement CDOT’s uniform electronic application, permitting, contract, and fee structure to facilitate **Public and Private** entities' access to CDOT rights of way and fiber lease for the deployment of broadband pursuant to the Public Private Initiatives Program Act; and

WHEREAS, the Transportation Commission, by this resolution, finds that the public interest and/or convenience will be served by approving the fee structure identified in Exhibit A.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the attached ROW Use Fee Structure and authorizes the Department to implement the fee structure on all new

permits facilitating Public and Private entities who build fiber in CDOT rights of way necessary to further improve the transportation system and broadband deployment.

BE IT FURTHER RESOLVED, the Transportation Commission authorizes the Department to adjust the fee structure by implicit price deflator-gross national product (IPD-GNP) annually.

BE IT FURTHER RESOLVED, the Transportation Commission hereby finds that it was not necessary for the Transportation Commission to adopt rules to implement this fee schedule or program.

BE IT FURTHER RESOLVED, the Transportation Commission recognizes the adopted fee structure is a secondary option to access CDOT ROW for fiber builds, the existing process defined in the Public Private Partnership Initiative statutes (Per C.R.S. §§43-1-1201 et seq.) is also an option to compensate CDOT for access to the ROW.

Herman
Stockinger

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Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Exhibit A - ROW Use Fee Structure

December 20, 2023

The Department's fee structure uses fair market value data from the Bureau of Land Management. BLM maintains a comprehensive list of the adjusted average per-acre land value for every county in the United States. CDOT isolated Colorado counties and converted each county's fair market value from acreage to square foot.

Heavily populated counties, on average, have a significantly higher fair market value. Consistent with CDOT's property management program, the fee structure is tiered based on the nine counties that currently have a population over 200,000 people. Using the median fair market value for the urban counties and the median fair market value for the remaining 55 counties resulted in a determined annual property surcharge rate of \$0.10 per foot for urban counties* and \$0.03 per foot for all other counties.

All counties would pay the same, one-time upfront permitting cost of \$0.05 per foot.

The Department will adjust the fee structure by implicit price deflator-gross national product (IPD-GNP) annually.

	One-Time Installment Fee for Permitting Costs	Annual Property Use Surcharge
Proposed Fee for ROW Access for Fiber installations	\$0.05 per foot	<ul style="list-style-type: none">● \$0.10 per foot for urban counties* (>200k population)● \$0.03 per foot for everywhere else

*Urban counties currently include Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld