

Board a ~~met~~ - April 15, 1999
Board Resolution: _____

TOLL REGULATORY BOARD

GUIDELINES FOR THE ESTABLISHMENT, OPERATION AND MAINTENANCE OF TOLLWAY SERVICE FACILITIES

WHEREAS, pursuant to Presidential Decree 1112, the Toll Regulatory Board is empowered to determine and decide the kind, type and nature of public improvements that will be constructed and/or operated as toll facilities, including the establishment, operation and maintenance of Service Facilities throughout the Tollways;

WHEREAS, the huge financial requirements of establishing these Service Facilities have made it necessary to tap the resources of private investors or proponents in order to dispense with the need for government to self-finance the same;

WHEREAS, the Toll Regulatory Board is mandated to issue the necessary rules and regulations governing these Service Facilities in order to promote the optimum and efficient use of strategic areas along the Tollways through the planned construction and establishment of Service Facilities and ensure the safety, comfort and convenience of Tollway motorists;

NOW, THEREFORE, in the light of the foregoing premises, the Toll Regulatory Board hereby issues the following Guidelines to govern the establishment, operation and maintenance of Tollway Service Facilities:

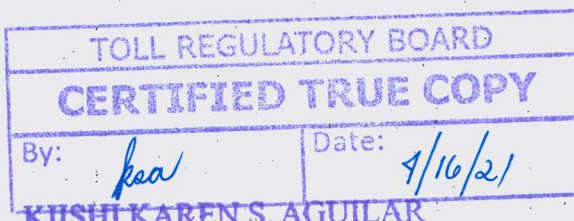
Section 1.0 - STATEMENT OF POLICY

In order to adequately provide the required essential service facilities throughout the Tollways for the purpose of preserving and ensuring the safety, comfort and convenience of Tollway motorists, it is necessary to secure and/or encourage alternative means to finance the design, construction, establishment, operation and maintenance and management of these kind of services by tapping the capability and competence of private investors, thereby dispensing with the need for government to self-finance these projects.

✓ In this regard, the construction, establishment, operation and maintenance of Service Facilities under the management of the private sector(s) should be authorized; provided, the same be closely monitored, supervised and regulated in the interest of the public.

Section 2.0 - DEFINITION OF TERMS

- 2.1 Service Facilities - Approved facilities that are financed, designed, constructed, established, operated, maintained and managed by the private Investors along appropriate segments of the Tollways, its extensions, linkages and stretches;
- 2.2 Service Facility Agreement - Contract entered into by and between the Tollway Operator and Service Facility Operator for the financing, design, construction, establishment, operation, maintenance and management of Service Facilities;

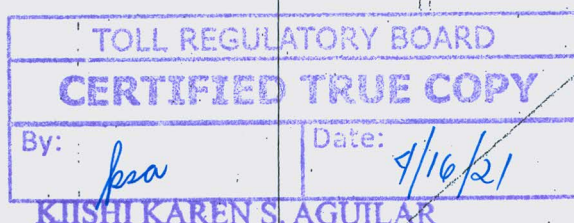


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- 2.3 Service Facility Operator – Citizens of the Philippines or duly registered corporations, partnerships, associations, or firms including joint ventures or consortia qualified under the Constitution and authorized by law to undertake the financing, design, construction, establishment, operation, maintenance and management of Service Facilities;
- 2.4 Tollway Operator – Person(s) granted a Toll Operations Certificate (TOC) or authority under a Contract the privilege to finance, construct and/or operate, maintain and manage Toll Facilities along the tollways, its extensions, linkages and stretches;
- 2.5 ✓ Toll Regulatory Board (TRB) – an attached agency of the Office of the President created under P.D. 1112 tasked among others, to monitor, supervise and regulate toll facilities

Section 3.0 - CLASSIFICATION OF SERVICE FACILITIES

- 3.1 SERVICE AREA – a specified area which shall contain a combination of the following facilities:
- 3.1.1 Gasoline Station – to provide, on a 24-hour period, sufficient quantity of unleaded, premium and diesel and other fuels, gas, oils, lubricants and car care products;
- 3.1.2 Emergency Vehicle Repair Shop – to provide, on a 24-hour period, the most common vehicle repairs, services and spare parts, tires and tire repair services, to be manned by experienced mechanics with the necessary tools and equipment;
- 3.1.3 Restaurant and Cafeteria – to provide, on a 24-hour period, a wide range of cooked food products;
- 3.1.4 Store and/or Grocery – to provide on a 24-hour period, the basic grocery necessities, items and products that may be required by motorists;
- 3.1.5 The Service Area shall likewise provide:
- ✓ i Sufficient and adequate parking area for every class of vehicle;
 - ✓ ii Clean, well kept and separate rest rooms/shower and wash rooms for men and women;
 - ✓ iii Well stocked emergency First Aid Station;
 - ✓ iv Operational telecommunication facilities;
 - ✓ v Operational ATM machines and PTC outlets;
 - ✓ vi Sufficient potable water and adequate lighting system;
 - ✓ vii Adequate solid/waste and used oil collection and disposal system;
 - ✓ viii Adequate number of security guards;
 - ✓ ix Operational VHF communication equipment which may be accessed with the tollway operator's frequency;
 - ✓ x Such other services as may be prescribed by TRB.



3.2 **REST AREA** – a specified area which shall contain a combination of the following facilities:

3.2.1 Rest and Recreation Station – provided with adequate tables and chairs;

3.2.2 Snack House and Coffee Shop – to provide, on a 24-hour period, a wide range of short order meals, sandwiches and drinks;

3.2.3 Store and/or Bazaar – to provide, on a 24-hour period, the basic grocery necessities, items and products that may be required by motorists;

3.2.4 The Rest Area shall likewise provide:

- i. Sufficient and adequate parking area for every class of vehicle;
- ii. Clean, well kept and separate rest rooms/showers and wash rooms for men and women;
- iii. Operational pay phone facilities;
- iv. Availability of sufficient potable water and adequate lighting system;
- v. Provision for solid waste collection and disposal system;
- vi. Adequate number of security guards;
- vii. Operational VHF communication equipment which may be accessed with the tollway operator's frequency;
- viii. Such other services as may be prescribed by TRB.

Section 4.0 - QUALIFICATION OF THE SERVICE FACILITY OPERATOR (SFO)

Any individual, partnership, corporation, association or firm including joint ventures or consortia qualified under the Constitution and authorized by law to engage in this kind of services(s) may qualify.

Section 5.0 - COVERAGE AND APPLICABILITY

These Guidelines shall apply to the financing, design, construction, establishment, operation, maintenance and management by the private sector(s) of Service Facilities along the Tollways, its extension, stretches and linkages under a Service Facility Agreement (SFA).

Section 6.0 - PARTIES TO CONTRACT

The Service Facility Agreement shall be entered into by and between the Tollway Operator and the Service Facility Operator either through bidding or negotiations, at the option of the former.

Section 7.0 – PROCEDURE FOR APPLICATION

7.1 The applicant shall submit to the Tollway Operator a letter of intent stating, among others, applicant's qualifications, the intended location of the proposed service facility, the location and vicinity map of the project site, the general plan thereof including the amenities to be operated, the financial capability of the Applicant to undertake the project including the capability to sustain the financing thereof, the estimated date when construction may be undertaken upon issuance of the Notice to Proceed and other data to enable the Tollway Operator to properly evaluate said application;



- 7.2 The Tollway Operator shall make a preliminary review of the letter of intent within fifteen (15) days upon receipt thereof and thereupon immediately notify the applicant of the results of its preliminary review;
- 7.3 If the preliminary review is favorable, the applicant shall, not later than thirty (30) days from receipt of the Tollway Operator's notification (*Item 7.2*), submit a Feasibility Study which shall include proof of its financial, technical and operational capability and competence to undertake the project together with such other documents as may be required by the Tollway Operator;
- 7.4 The Feasibility Study shall thereupon be evaluated by the Tollway Operator within fifteen (15) days upon receipt thereof and thereafter immediately notify the applicant of the results of said evaluation;
- 7.5 If the evaluation proves favorable, the applicant within thirty (30) days upon receipt of said notification, submit to the Tollway Operator the final engineering design, topographic survey of the proposed site, detailed site development plans and drawings, and such other construction details and design analysis which shall include the specifications, quantities, calculations and cost estimates, construction schedule (PERT/CPM) and S-Curve, design perspective, certification as to the availability of funds, authority of the signing officer, and other documents as may be required by the Tollway Operator. Further, the applicant shall submit a certified true copy of the title to property, and/or other evidence that the property pertaining to the proposed location may be available for such purpose;
- 7.6 The Tollway Operator shall, within thirty (30) days upon receipt of applicant's submissions, endorse to the Toll Regulatory Board all the aforesaid documents, including those mentioned in *clauses 7.1, 7.3, 7.5*, together with the requisite recommendation relative to the application;
- 7.7 The Toll Regulatory Board shall after its review, assessment and evaluation of the aforesaid documents, inform the parties of the results thereof;
- 7.8 Upon favorable consideration by the TRB, the Tollway Operator shall, within fifteen (15) days thereafter, execute the Service Facility Agreement with the applicant together with the Notice to Proceed specifying therein the date of the commencement of construction as well as the duration thereof and all other conditions requisite.

Section 8.0 - RIGHTS AND OBLIGATIONS OF THE TOLLWAY OPERATOR

- 8.1 To review and evaluate the design, plans and specifications, as well as the economic feasibility, financial viability, operational competence and other technical aspects of the Service Facility Operator's proposal and all documents relative thereto.

The review and evaluation shall likewise consider the Service Facility Operator's individual and/or collective experience and track record on similar and/or related projects undertaken by it including its capability to sustain the financing requirements therefor;

- 8.2 To inspect, check, verify, oversee and evaluate all aspects of the project construction including the exercise of technical supervision over project

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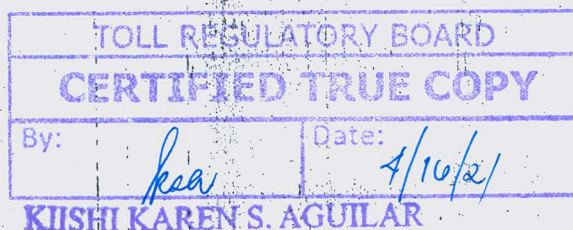
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activities to ensure that the same is in accordance with approved plans, specifications and standards. The exercise of said supervision, however, shall not diminish the responsibility of the Service Facility Operator.

- 8.3 To enter into a Service Facility Agreement with the Service Facility Operator in accordance with these Guidelines and other pertinent laws, rules and regulations;
- 8.4 To issue the Notice to Proceed;
- 8.5 To permit the Service Facility Operator ingress and egress alongside the Tollways fronting the site of the Service Facility to be constructed and/or operated;
- 8.6 To conduct ocular and other forms of inspection, at any given time on the Service Facility, with respect to its operation and maintenance;
- 8.7 To bring to the attention of the Service Facility Operator, in writing, any infractions, violations and/or non-compliance with any of the provisions, terms and conditions of the Service Facility Agreement; Provided, that a thirty (30) calendar day period, after receipt of written notice, shall be given to the Service Facility Operator to rectify and/or undertake corrective measures;
- 8.8 To impose such reasonable fines and similar charges relative to said violations and/or infractions, subject to appropriate rules and regulations; Provided, however, that any rules and/or regulations imposing such fines and charges to be issued by the Tollway Operator, shall have the prior approval of the Toll Regulatory Board;
- 8.9 Subject to prior notice, to cancel, revoke and rescind the Service Facility Operator's authority to operate said Service Facility and/or stop the operations thereof for serious violations or material breach of the provisions of the Service Facility Agreement.

Section 9.0 - RIGHTS AND OBLIGATIONS OF THE SERVICE FACILITY OPERATOR

- 9.1 To finance, design, construct, establish, operate, maintain and manage the Service Facility and all other incidents appurtenant thereto including the lease and/or purchase of the required site;
- 9.2 The Service Facility Operator shall be solely and exclusively responsible for the integrity and/or quality of the design, construction, operation, maintenance and management of said Service Facility and the requisite approval of the Tollway Operator and/or other agencies does not diminish said responsibility nor transfer any part of said responsibility to other parties;
- 9.3 To strictly follow and/or adhere to these guidelines and all laws, rules, regulations and guidelines as well as other requirements imposed by national and local government authorities;
- 9.4 To secure and be exclusively responsible for all the required Municipal, Provincial and National Government permits, licenses and approvals, and pay all the required fees thereon, including zonal and environmental clearances and/or permits;



- 9.5 To operate, maintain and manage the Service Facility in accordance with the Tollway Operator's standards and to undertake such other measures necessary for the comfort, security and convenience of the users/motorists, and provide for the upkeep, orderliness, cleanliness and security of the Service Facility and its surrounding areas taking into account the importance of an environment friendly waste management system with adequate sanitation and sufficient potable water source and supply facilities;
- 9.6 To provide easy access to the project site during the entire period of construction, operation and maintenance without the need of prior notice;
- 9.7 To maintain the operations of the Service Facility for twenty four (24) hours every day of the year;
- 9.8 To pay all toll fees in going to and from the Service Facility. It is understood that all vehicles owned by the Service Facility Operator shall not have any other access to and exit from the Service Facilities except thru the tollways;
- 9.9 To upgrade and/or improve the Service Facility;
- 9.10 To secure the written consent of the Tollway Operator and the TRB in any instances where the right of ownership or interest over the Service Facility or any portion thereof is being sold and/or transferred/assigned to any other third party;
- 9.11 ✓ To pay project overhead to the Toll Regulatory Board equivalent to two percent (2%) of the contract amount to be utilized for the supervision of the construction of the Service Facility;
- 9.12 To pay, without delay, all the required fees and charges that may be imposed including all fines relative to violations during construction and operation;
- 9.13 Whenever requested by the Tollway Operator, to submit such reports relative to its entire operations, including customer sales analysis reports;
- 9.14 To hold the Tollway Operator free and harmless from any and all claims, demands or actions of third parties occasioned by the exercise of the Service Facility Operator of its rights and obligations under the SFA or its activities relative to the construction, operation and maintenance of the Service Facilities;
- 9.15 To comply with all guidelines, rules and regulations which the Tollway Operator may prescribe from time to time, including the manner by which tollways service facilities shall be operated, managed and/or conducted; and,
- 9.16 Upon termination of the Service Facility Agreement, to restore without any delay the area where said facility is located to its original state, including the responsibility for the removal of all debris and equipment and other related activities.



Section 10.0 COMMON PROVISIONS OF A SERVICE FACILITY AGREEMENT

- 10.1 The Service Facility Agreement (SFA) shall have an initial term not exceeding ten (10) years, renewable thereafter upon mutual agreement of the parties and approval thereof by TRB;
- 10.2 Service Facilities are to be totally fenced-off with ingress and egress of vehicles allowed only through the Tollway Operator's designated ingress and egress points;
- 10.3 All fees/charges that may be imposed by the Tollway Operator shall be subject to prior written approval by the Toll Regulatory Board (TRB);
- 10.4 No service facility is to be located within 1.0 km. from any existing and/or proposed entry/exit points or other structures such as river bridges, viaducts, overpasses and underpasses;
- 10.5 Service Facilities located on the same side of the Tollway shall have a minimum distance of 5.0 km. from each other;
- ✓ 10.6 No service facilities shall be located immediately fronting each other along the length of the Tollways;
- 10.7 All service facilities shall be provided with acceleration and deceleration lanes based on the minimum design and performance standards to be prescribed;
- 10.8 Modular or sky signs to identify a Service Facility may only be installed with a distance of at least one (1) km. before such Service Facility. In no instance, however, shall such signs distract or tend to distract motorists. Directional signages along the tollways should always take into account road safety requirements;
- 10.9 Service facilities structures, except the sky signs, shall not exceed a maximum height of seven (7) meters;
- 10.10 Service facilities shall contain all the amenities and diverse business establishments specified under *Clauses 3.1* and *3.2* hereof. The Tollway Operator may prescribe the manner under which said amenities may be operated;
- 10.11 Service facilities shall be properly fenced off from the surrounding areas utilizing concrete hollow blocks. In no instance shall access gates, whether for vehicles and/or personnel are to be allowed;
- 10.12 No service facilities shall be located in heavily populated areas along super-elevated and wide toll road segments;
- 10.13 The sale, display and advertisement of alcoholic beverages, liquors, wine, prohibited drugs and the like shall be strictly prohibited;
- 10.14 In no case shall any of the amenities mentioned in *Clauses 3.1* and/or *3.2* be constructed or located inside the right-of-way;

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10.15 The SFA shall conform with all the Guidelines provided herein, as well as all laws, rules and regulations imposed by both national and local authorities, including Republic Act 2000, Department of Public Works and Highways (DPWH) Administrative Order No. 1 and Republic Act 4136;

10.16 In case the proponent is a Joint Venture or Consortium, the members or participants thereof shall submit sworn statements undertaking that if granted the Service Facility Agreement, they individually bind themselves to be jointly and severally responsible for the obligations of the Service Facility Operator under the Service Facility Agreement; and,

10.17 The SFA may be amended, revoked whenever public interest so require or in case of the failure of the Service Facility Operator to comply with the provisions of the Service Facility Agreement.

11.0 GOVERNMENT SHARE ON REVENUES

The Tollway Operator shall share with the Government of the Republic of the Philippines, thru the Toll Regulatory Board, by way of Concession Fee, *fifty percent* (50%) of all fees or charges imposed by the Tollway Operator on the Service Facility Operator, to be remitted or paid directly by the latter to the National Treasury under a TRB designated account.

12.0 SANCTIONS

The Toll Regulatory Board (TRB) reserves the right to assume the rights and obligations of the Tollway Operator in cases where the Tollway Operator fails or willfully refuses to enforce its rights and obligations as well as the instruction of the TRB under the SFA and these Guidelines.

Disagreements between the Tollway Operator and Service Facility Operator shall be brought immediately to the attention to TRB for resolution. Decisions of the TRB in this regard shall be binding on the Tollway Operator and the Service Facility Operator

13.0 AMENDMENT OF RULES AND REGULATIONS

These Guidelines may be amended from time to time when public interest so requires.

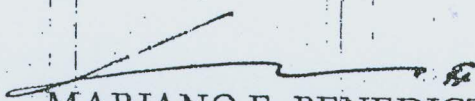
14.0 EFFECTIVITY

These Implementing Rules and Regulations shall take effect upon approval by the Toll Regulatory Board and fifteen (15) days after publication in a newspaper of general circulation.


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By: <i>ksa</i>	Date: <i>7/16/21</i>

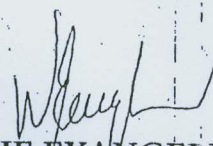
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Recommending Approval:

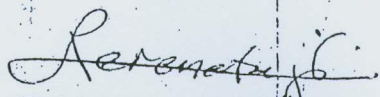

MARIANO E. BENEDICTO II
Executive Director


Approved:

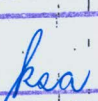

GREGORIO R. VIGILAR
Chairman, TRB


WILLIE EVANGELISTA
Member
Department of Transportation and
Communications (DOTC)

JOEL A. BAÑARES
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Department of Finance (DOF)


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Private Sector


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