

 PA TURNPIKE COMMISSION POLICY <i>This is a statement of official Pennsylvania Turnpike Policy</i>		NUMBER: 9.02 APPROVAL DATE: 10-16-2001 EFFECTIVE DATE: 11-01-2001 REVISED DATE: 06-16-2020
POLICY SUBJECT: Tower, Monopole and Cell Site Structure Leasing	RESPONSIBLE DEPARTMENT: Property Management	

A. PURPOSE:

The purpose of this policy is to outline a process for the leasing of existing Pennsylvania Turnpike Commission (“Commission”) owned communications tower space, monopoles, and cell site structures (together “Communication Facility, Communications Facility or Communication Facilities”) and for the leasing of Commission-owned property to outside parties for the purpose of building new Communications Facilities.

B. SCOPE:

This Policy applies to all requests for the lease of Commission-owned property to build new Communication Facilities and/or lease space on Commission Communication Facilities. The Commission’s Property Management Department, with technical oversight from the Information Technology (IT) and Facilities Departments, is designated to handle all requests for the lease, license or other use of Commission Communication Facilities and surplus property intended for Communication Facility construction.

C. GENERAL POLICY:

The Commission, in its sole discretion, may lease space on existing Communication Facilities or lease or sell surplus property for the construction of Communication Facilities, when feasible and advisable to do so, in order to extend and improve existing coverage for cellular and other wireless communications services across the Turnpike.

D. DEFINITIONS:

Communication Facilities - Towers, monopoles and cell site structures within the defined limits of a telecommunications equipment compound.

Compound – A defined area at the base of a Communications Facility in which telecommunications equipment is located, including any building housing such equipment.

Fair Market Value - The price (cash or equivalent) that a buyer could reasonably be expected to pay and a seller could reasonably be expected to accept, if the property were for sale on the open

market for a reasonable period of time, both buyer and seller being in possession of all pertinent facts, and neither being under any compulsion to act.

Public Agency – A Federal, State, County or Municipal Agency.

The Telecommunications Act of 1996 - is further defined as Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996), codified throughout Title 47 of the United States Code (47 U.S.C.), as amended.

Third Party Communication Facility Review Agent - a consultant for the Commission tasked with reviewing fair market value evaluations, property assessments, carrier negotiations, site locations, future expansion assessments, site management, ground space leasing, cell tower site selection and cellular site feasibility audits.

E. PROCEDURES:

1. Review of Requests.

All requests regarding Communications Facilities, whether they are for collocation or new construction, shall be submitted to and processed by the Property Management Department. Once the request has been received, it will be evaluated and then circulated internally for review and comment (prior to being approved pursuant to Section 4 below) based on the following criteria:

- a. If the request is to collocate on an existing Commission tower or monopole space, the internal review will consist of representatives of the Property Management, IT, Facilities and Legal Departments.
- b. If the request is to construct a new Communication Facility anywhere on Commission property, the internal review will consist of representatives of the Property Management, IT, Legal, Engineering, Facilities and Maintenance Departments, along with concurrent reviews by the Commission's Third Party Communication Facility Review Agent.
- c. The Property Management Administrator may establish and adjust a fee schedule based on industry standards.

2. Lease of Existing Commission-owned Tower Space.

- a. Public Agencies. The Commission's first priority in Communication Facility space shall be public safety. When feasible, and when technical concurrence has been obtained from the Commission's Third Party Communication Facility Review Agent, the Commission, in its sole discretion, may lease excess Communication Facility space to federal, state, county and municipal agencies for 911 use and other public service related services.

- b. Commercial entities. The Commission may, in its sole discretion, also lease excess Communication Facility space to commercial entities, but only in those situations where the local zoning entity has requested that the Commission lease to that particular entity, where the provisions of the Telecommunications Act of 1996 require it, or where to do so would be in the best interests of the Commission. Any commercial entity collocating on a Commission-owned Communication Facility is responsible for obtaining all appropriate and applicable zoning approvals from local Public Agencies, a copy of which shall be provided to the Property Management Department for review and approval pursuant to Section E of this policy.
 - c. Notwithstanding the above, no excess Communication Facility space shall be leased to either a Public Agency or commercial entity if, based on a structural analysis with the proposed total loading, the forces acting on the structure are greater than or equal to 85% of the capacity of any component of the tower or its function. The Commission, in its sole discretion, may allow such collocation provided the Public Agency or commercial entity modifies the Communication Facility, foundation or both so that the resulting maximum forces are less than or equal to 85% of the capacity of the critical component.
 - d. Requested amendments to an existing lease shall not be granted if, based on a structural analysis with the proper total loading, the forces acting on the structure are greater than or equal to 85% of the capacity of any component of the Communication Facility or its foundation. The Commission, in its sole discretion, may decide to grant such amendment so long as the Public Agency or commercial entity modifies the Commission Facility, foundation or both so that the resulting maximum forces are less than or equal to 85% of the capacity of the critical components.
 - e. Subject to review and approval of the Commission, requested amendments to an existing lease, Communication Facility modifications and proposed equipment installations may be granted to any Public Agency, if the Public Agency can prove, by means of a structural analysis, that its requested modification(s) will not increase the structural loading of the Communication Facility but rather will reduce or maintain its current capacity.
 - f. All Communication Facility modification designs must be reviewed and approved per Section E of this policy. If no such modification is feasible, or if the Commission, per Section E of this policy, deems no such modification is feasible, no lease or amendment shall be granted.
 - g. All proposed equipment installations, including antennas, mounts, cables and other appurtenances and all proposed Communication Facilities modifications shall adhere to the ANSI/TIA-222 standard and the current Uniform Construction Code (UCC). All supporting documentation, including structural analyses, reports, drawings and modification design calculations shall be submitted for review and approval pursuant to Section E of this policy.
3. Lease or Sale of Commission Property for New Tower Construction.

- a. Public Agencies. The Commission may, in its sole discretion, sell or lease Commission property to Public Agencies, as described above, for the construction of Communications Facilities.
 - b. Commercial entities. The Commission may, in its sole discretion, sell or lease Commission property to commercial entities for the construction of Communications Facilities, but only in those situations where the local zoning entity has requested that the Commission lease to that particular entity, where the provisions of the Telecommunications Act of 1996 require it or where to do so would be in the best interests of the Commission. Any commercial entity purchasing or leasing Commission property is responsible for obtaining all appropriate and applicable zoning approvals from local Public Agencies.
4. Approval.
- a. Commission approval. Formal Commission approval shall be obtained for all transactions resulting in an agreement with a one-time or yearly income to the Commission in excess of \$50,000. Formal approval is also required for leases with terms that exceed ten years and cannot be terminated by the Commission prior to that time.
 - b. Staff approval. Transactions of \$20,000 or less may be approved by the Property Management Administrator. Transactions between \$20,001 and \$50,000 may be approved by the Chief Counsel. Agreements governing these transactions may be prepared and executed by the Property Management Administrator or Chief Counsel, with approval as to form and legality by the Legal Department.
 - c. If an amendment to an agreement that was previously approved pursuant to Section E (4) (b) will result in an amended agreement in excess of \$50,000, formal Commission approval shall be obtained. Thereafter, all amendments to agreements subject to this policy shall follow the same procedures as outlined in Sections E(4)(a) and E(4)(b).

5. Compensation.

All transactions shall result in the Commission receiving Fair Market Value for the property interest in question. For the purposes of this section, the avoidance of liability, the creation of public goodwill, the rendering of public service, and the performance of services for the Commission by the lessee or purchaser may be taken into consideration.

This Policy Letter supersedes all previous Policy Letters on this subject.