

Understanding Right of Way as per Telecommunications Act 2023 & Right of Way Rules 2024 issued under the Act

Uploaded on 03.10.2024

The Telecommunications Act, 2023

Multiple acts

Indian Telegraph Act, 1885

Indian Wireless Telegraphy Act,
1933

The Telegraph Wires (Unlawful
Possession) Act, 1950



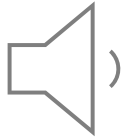
One single

**The Telecommunications Act,
2023- Digital by Design**

The Telecommunications (Right of Way)
Rules, 2024 notified on 17.09.2024 to be
effective from 01st January 2025



Telecom RoW Rules, 2024- Effective from **01.01.2025**



Draft Rules
Published on
09.07.2024, with 30
days' time for public
consultation



After considering
objections/
suggestions,
notified on
17.09.2024



**Appoint a Nodal
officer within 30
days. i.e. by
16.10.2024 (through
Portal)**



Rules **binding and to
be followed** without
the need for adoption

Important Definitions

(Sec.10 of the act, read with rule 2)



Public Entity (PE)

- The Central Government
- The State Government
- Local authority
- Any authority, body, company or institution incorporated or established by the Central Government or the State Government, or under any statute; or
- Any non-government entity vested with the ownership, control or management of any public facility or class of public facilities, as may be notified by the Central Government (in process)



Facility Provider (FP)

- **FP** means the Central Government or any authorized entity
- It includes any contractor or sub-contractor or agent working for the Central Govt. or authorized entity
- Definition of Authorization as per the Act covers all entity having permission for establishing, operating, maintaining or expanding telecommunication networks



Property categorization

- **Public property** (owned by public entity) – Central , State, local authority, any institution, any non govt. entity managing public facility and notified by Central govt.
- **Other than public property**



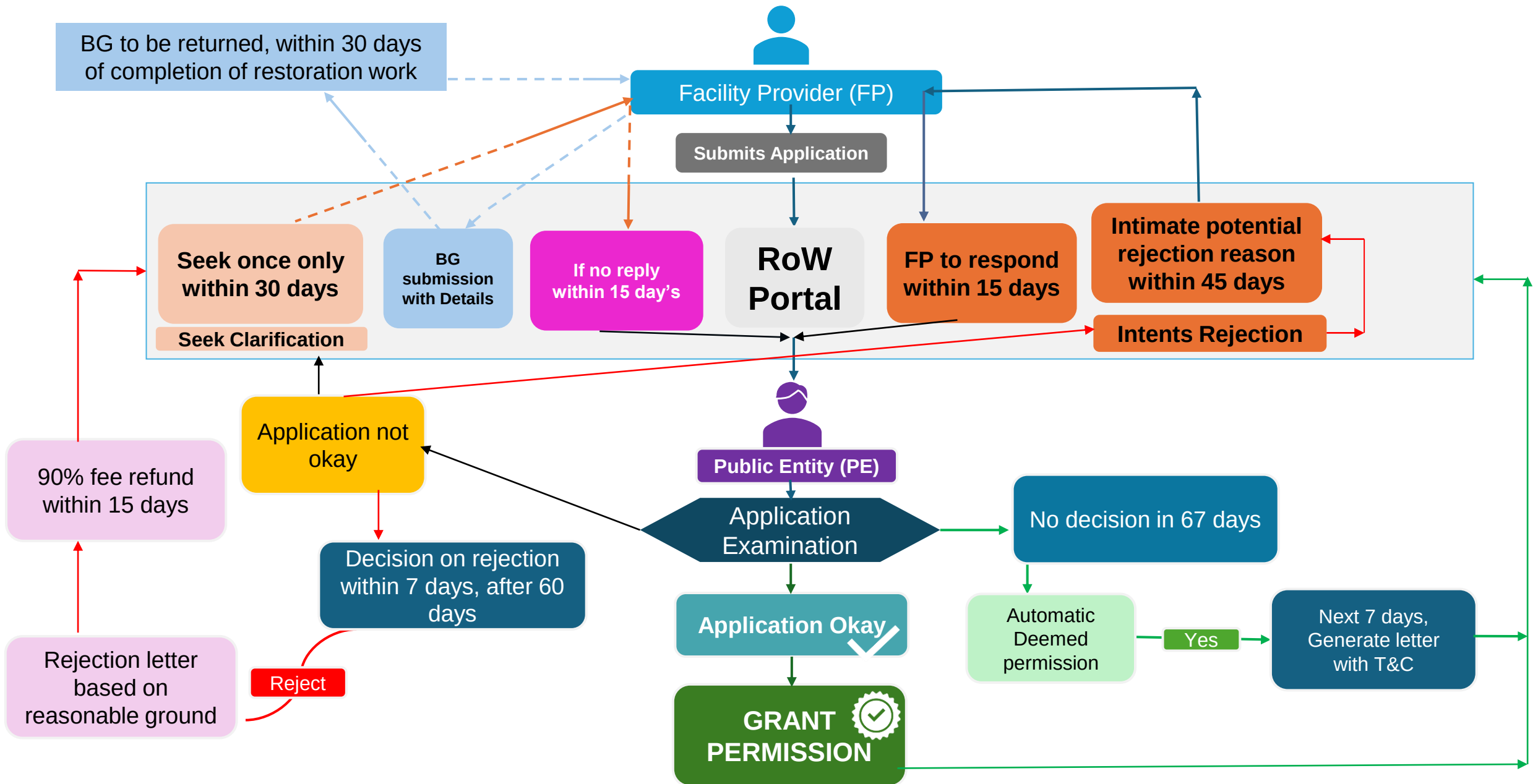
Mobile Tower

- Any above-ground contrivance, including that which may be dismantled and reassembled at another location, used for carrying, suspending or supporting a telecommunication network, but does not include a pole

Right of Way Rules 2024



RoW Application process- Public Property



Misc. provisions

1

Validity- Permission to be **co-terminus** with the term of authorization/ license or exemptions from such authorization/ license (Rule-5)

2

PE shall **not levy any fee, charge, rent, annuity, or compensation or entry fee**, for access, or seek any other financial contribution in any Form [Rule -7(11), 9(9), 12(3), 15(3)]

3

No coercive action, such as sealing, preventing access, or forcible shutdown of the telecommunication network [Act- 14(4)]

4

Applicable taxes, cess and levies:
Charges payable under these rules shall be exclusive of taxes, cess and levies (Rule -21)

No property tax , levy, cess, fees, or duties to be levied on the tower as it has been delinked from the property- [Act- 14(3)]

5

Days Means all days including public holidays (Rule -22)

“*force majeure* event” means and is limited to-

- war or hostilities
- major riots or civil commotion
- earthquake, flood, tempest, lightening or other natural physical disasters
- restrictions imposed by the Central Government or State Governments

Applicability

- Establishment, operation and maintenance of Underground/ Overground telecommunication network in public property and Usage of street furniture

Timelines

- Timelines specified for the **execution of work** shall stand extended by the duration of any *force majeure* event **as may be notified**

RoW charges as per the RoW Rule, 2024



Tower

OFC/ submarine cable

Small Cell

Street Furniture

Application Fee
(one time)

₹ 10,000/Tower
8(4)(a)

For other than public
property, only
intimation
15 (3)

Overground
₹ 1000/KM
8(4)(b)

Underground
₹ 1000/KM
6(4)

NIL
11(3)

Establishment of
pole-NIL
8(4)(c)

Compensation
Charges

Once/annually
(Assessed by Public
Entity)
9(2)(b)

NIL
7(11)

****Urban-**
₹ 300/street
furniture/Yr 11(8)(a)

****Rural-**
₹ 150/ street
furniture/Yr 11(8)(a)

****Usage of Street
Furniture for
telegraph line-**
₹ 100/ SF/Yr 11(8)b

Compensation for
establishment of
Pole –Nil 9(2)b

Compensation for
damage/ BG
(Restoration Charges)

As per CPWD rate
9(8)(a)

As per PWD rate
9(8)(b)

By Self-
BG 20% of
restoration cost 7(9)(b)

- By Local Body- As per CPWD / PWD rate 7(8)(b)
- For HDD, charge limited to area of pit only 7(8)(b)

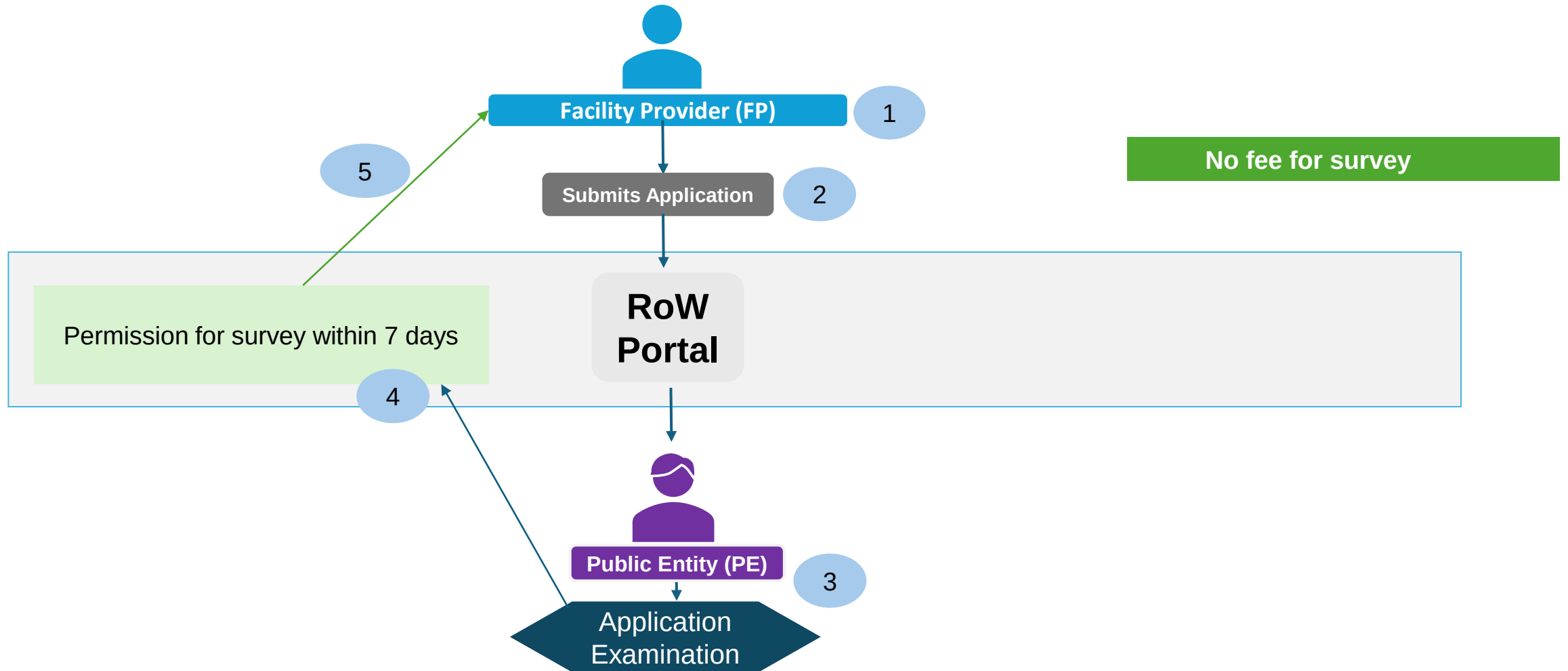
Establishment of Telecom infrastructure on other than Public Property:- Rule 15

- No Permission is required
- Only information required to be submitted (Structural Suitability required)

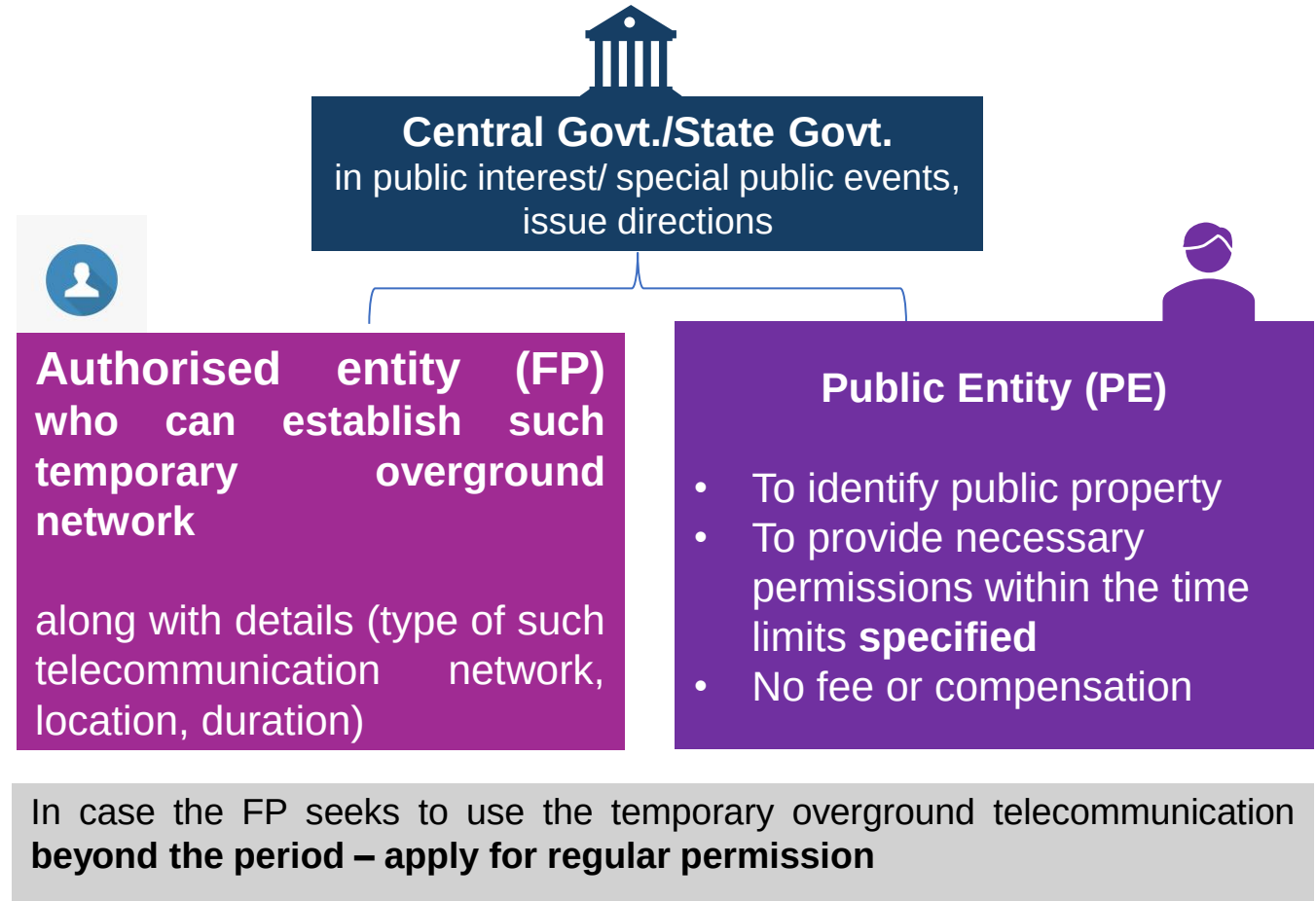
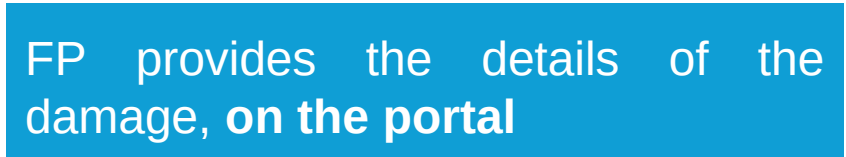
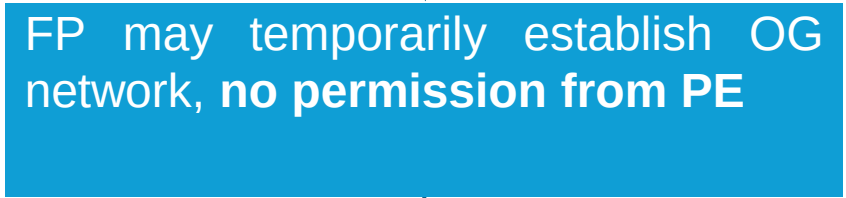
Remarks:- For Survey by FP, no charge 6(2)(b)

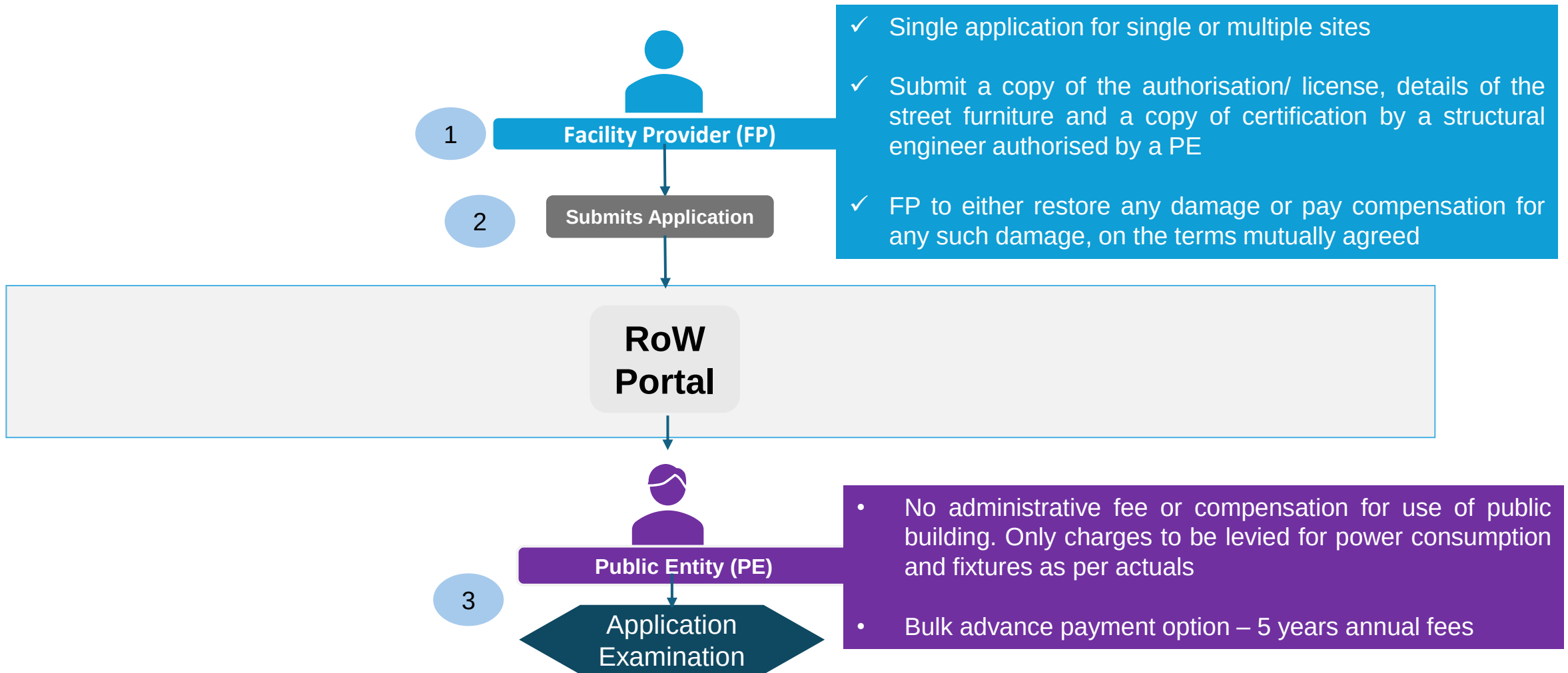
****Option of payment of annual fees in advance for a period of 5 years - 11(8)**

Survey Rule- 6(2), 8(2)

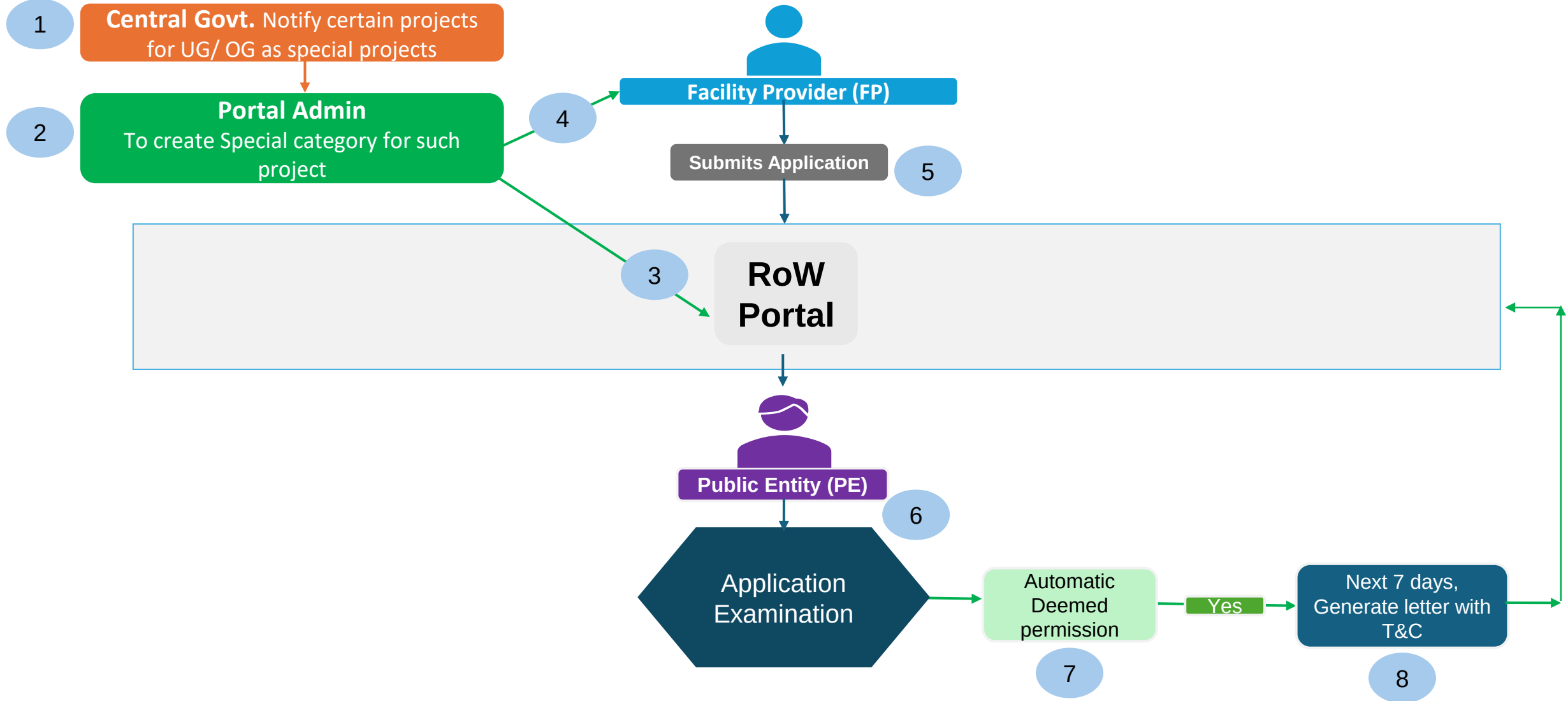


Establishment of temporary overground telecommunication network (Rule-10)





Special Project by Central Govt. in public interest (Rule-12)



Obligations of FP after grant of RoW permission (Rule-13)



Facility Provider (FP) shall ensure-

1

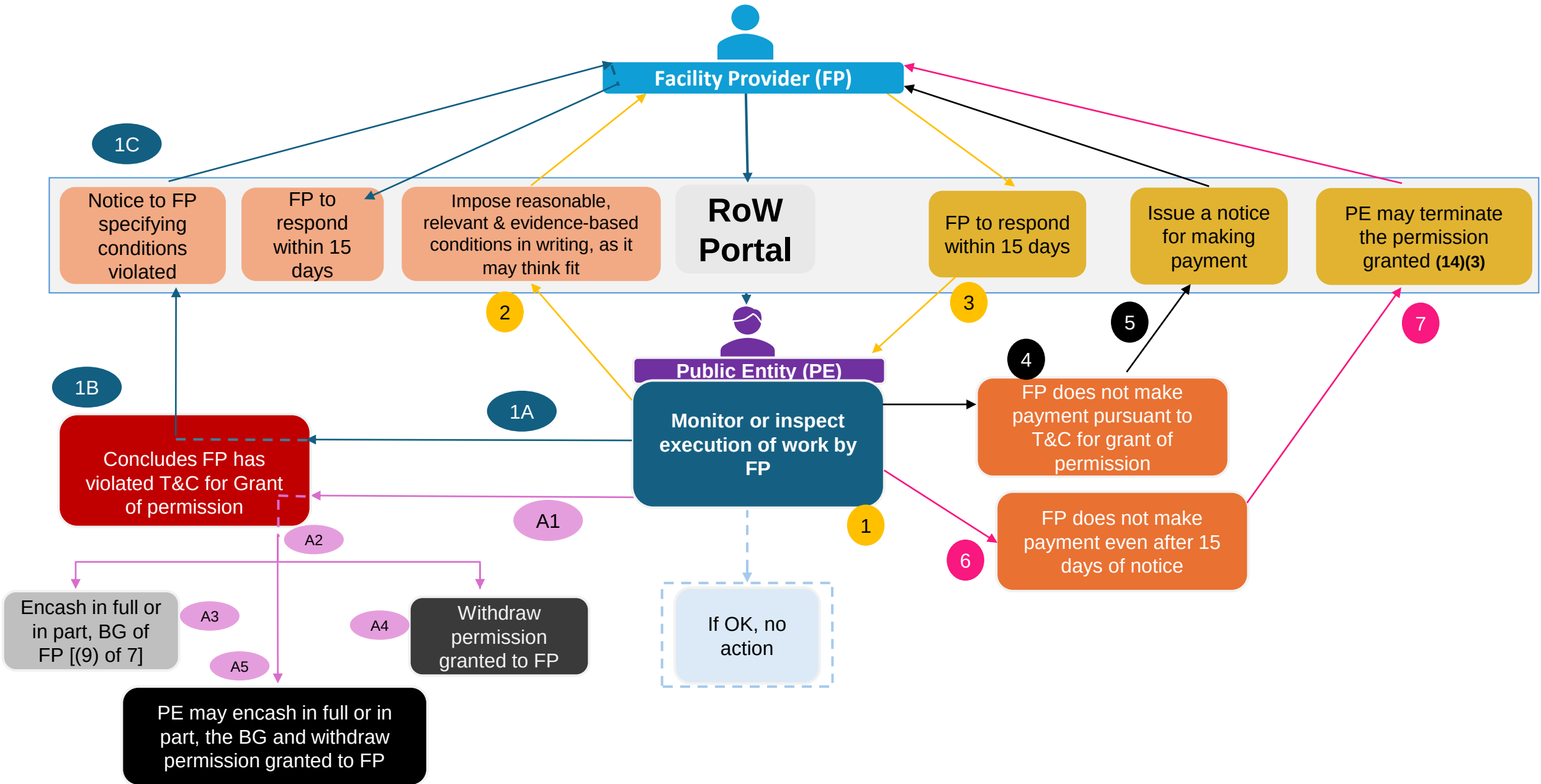
Payment of all amounts as specified and adherence to the T&C

2

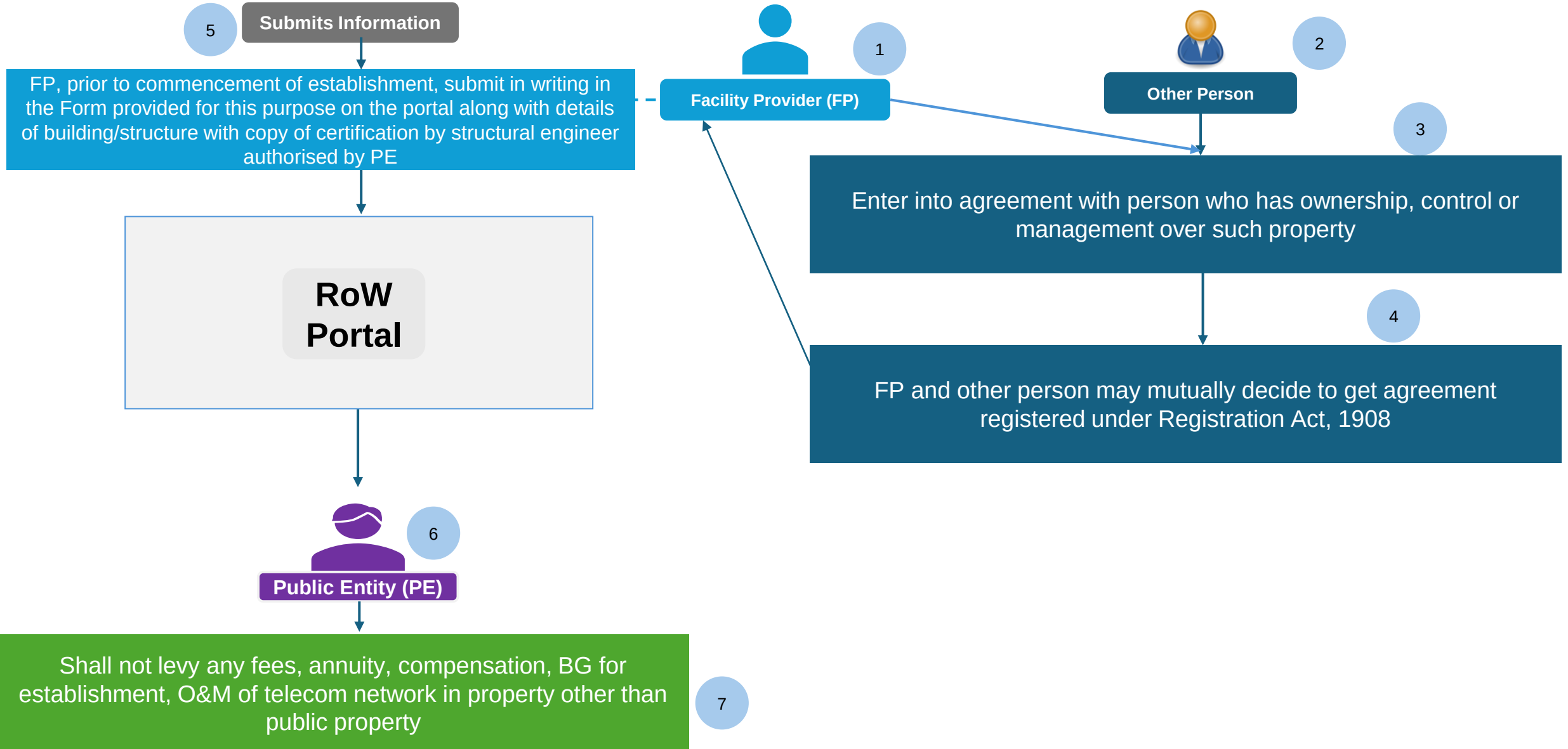
Implementation of measures to mitigate public inconvenience and ensure public safety including measures to ensure the Structural Safety of Overground Telecom Network

3

Maintenance of up-to-date digital information of underground telecommunication network established by that FP, including as-built information at a frequency as specified by Central Govt., through positional intelligence/other appropriate technology and to be shared/updated on demand, through the portal, with the designated officer, as may be notified by the Central Government in this behalf



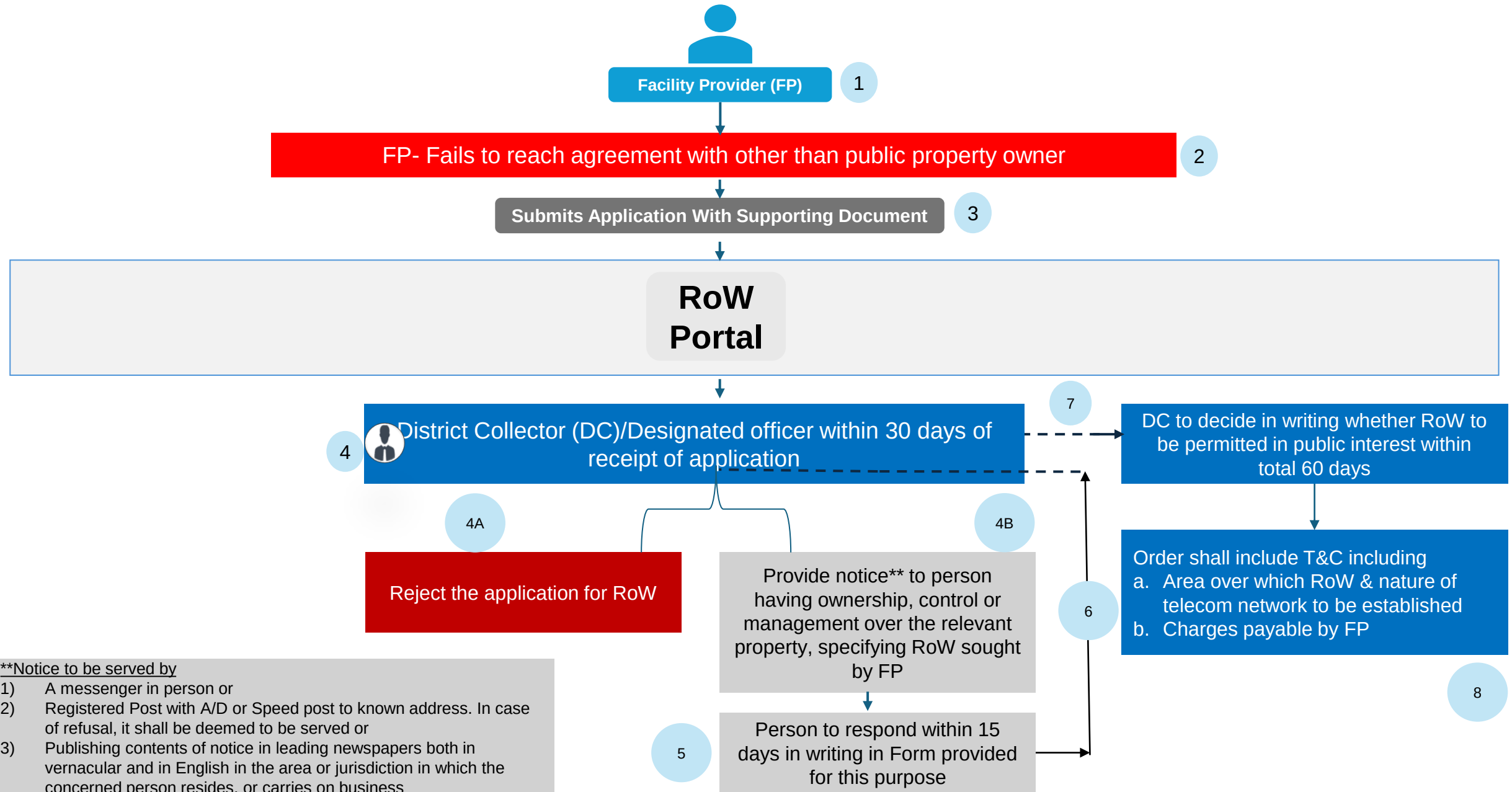
Application Process- Other than public property (Rule-15)



Note- Generate Acknowledgement Receipt

Permitting RoW (other than public property) by Central Government in public interest

(Rule-16)



Where the Central Government has notified an infrastructure project or class of infrastructure projects, **the public entity shall**

- i. Make available (duct) on an open access basis, that is, non-discriminatory and non-exclusive, subject to payment of charges based on **prevailing market rates and the principle of cost recovery over a minimum period of twenty-five years**
- ii. **Provide for an online application process to enable facility providers to make an application**

Provided that such charges shall not exceed the amount as may be notified by the Central Government from time to time

Metro Rail



- Reduces pollution
- Better air quality
- Reduces global warming
- Reduces FOREX outgo
- Reduces CO2 emission
- Lesser Congestion on roads

Common Duct



- **Avoid frequent Digging and Excavation**
- **Decrease costs** for the Nation
- **Multiple RoW permissions** can be avoided
- **Digital-ready infrastructure**
- **Improved aesthetics of the City**
- **Better for environment**

Note: Illustration shows common duct and benefits similar to Metro, not related to the rules/act.

Handling of property having Telecom network items (Rule-18, 19)



Property Owner

Person having ownership over property may decide

**To remove, relocate, alter Overground/
Underground network**

Issue notice to FP for removal/ relocation

Within 30 days FP to submit plan

FP to

- Ensure removal/ relocation within 90 days
- Bear responsibility and liability including the cost for removal
- The person issuing notice shall defray such expenses from the compensation, if any, that such person may have received from the F.P

**To cause damage/ interrupt/ interfere with
Overground/Underground network**

Upload on portal (*CBuD) notice to exercise legal right including presence of emergency, if any

FP shall provide network details falling under/ over or along the property with precautionary measures to be taken

**Within 24 hrs. for emergency
case**

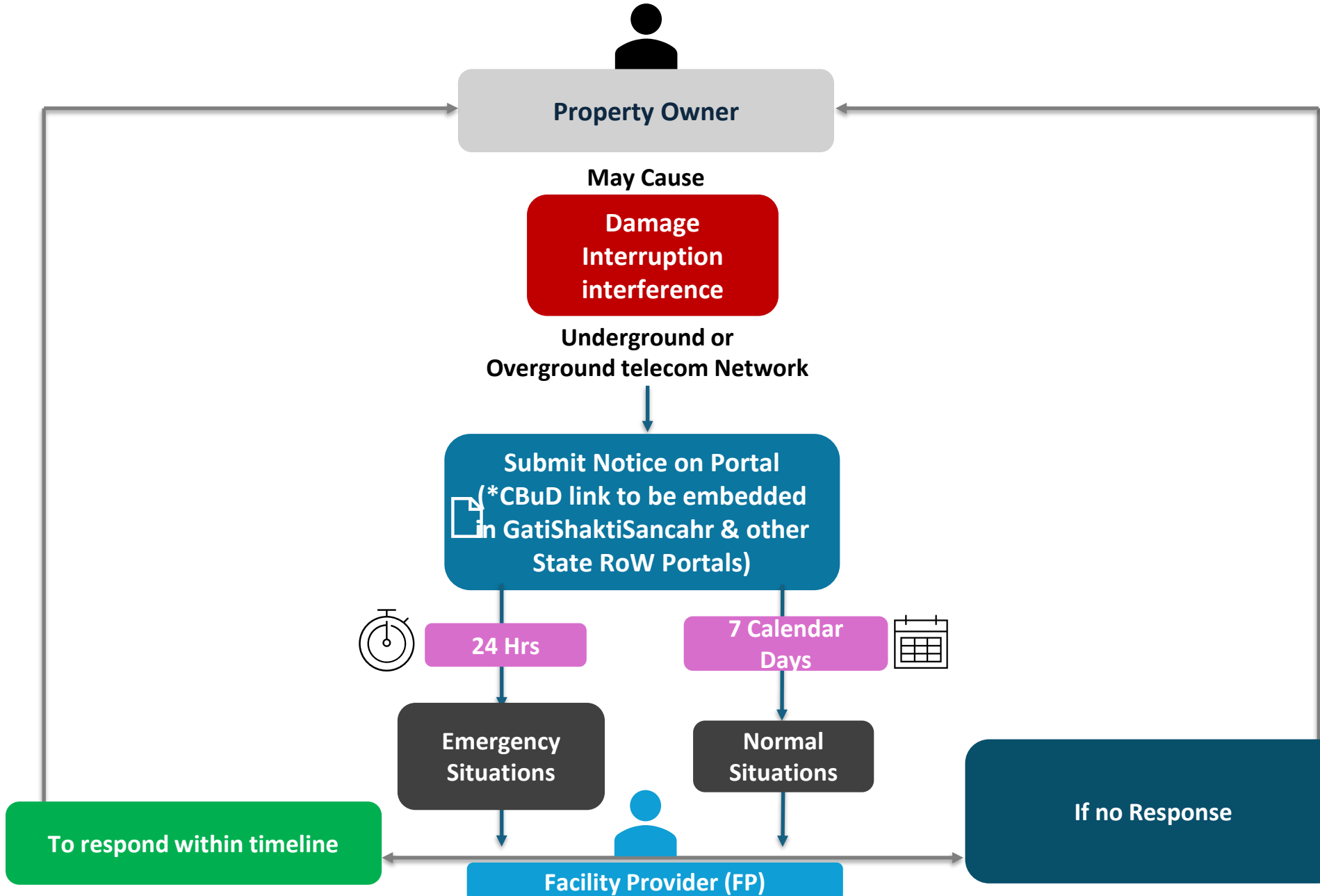
**In other situation, period of 7
days**

How to deal with property having Telecom Infra? (Rule-19, 20)



*CBuD- Call Before u Dig

- In case of damage, pay damages.
- Quantum of compensation = expenses incurred in repair+restoration
- In case of dispute - **District Judge**
- Sec. 42 (1) of the chapter IX prescribes- whoever causes damage to critical telecommunication infrastructure shall be **punishable with imprisonment for a term which may extend to 3 years, or with fine which may extend up to 2 crore rupees, or with both**



Summary Takeaways



- State having their own portal to modify their portal by 31.12.2024
- PE shall **not levy any fee, charge, rent, annuity, or compensation or entry fee**, for access, or seek any other financial contribution in any Form
- Permission to be granted on non-discriminatory and non-exclusive basis
- The telecommunication network installed shall not be subject to any claims, encumbrances, liquidation or the like, relating to such property
- No property tax, levy, cess, fees or duties to be taken for the Telecommunication network
- No coercive action, such as sealing, preventing access, or forcible shutdown of the telecommunication network [Act- 14(4)]



Thank You

**Neeraj Kumar, DDG & Mission Director-National Broadband Mission, 98682 18069,
md@broadbandmission.gov.in**

Ganesh Bakade, Director, National Broadband Mission, 9868103831, dir2@broadbandmission.gov.in

Vijay Kumar Maurya, Director, National Broadband Mission, 9472772637, dir3@broadbandmission.gov.in

Himanshu Sharma, Director, National Broadband Mission, 9416070989, dir1@broadbandmission.gov.in

Different Type of Common Ducts



GIFT Utility Duct: Gandhinagar

Gujarat International Finance Tec-City (GIFT) RCC duct containing prefabricated HDPE developed the vision of “Digging Free City

1. NHLML developing OFC infrastructure along – Delhi-Mumbai Express Way (1367Km) & Hyderabad-Bangalore (512Km) **(Similarly State may plan to lay common telecom duct for better and stable digital infrastructure)**

