

**ATTACHMENT D TO RESOLUTION TB 2016-2**

**RULES/REGULATIONS FOR TOLLS ON OHIO RIVER BRIDGES**

**Rule/Regulation 1. Definitions**

Sec. 1. The definitions in this Rule/Regulation apply throughout this article.

(a) “Administrative hearing” means an administrative hearing conducted in accordance with Rule/Regulation 9.4 for the resolution of disputes on whether a toll is due and payable.

(b) “All-electronic tolling” means a system of toll assessment and collection while vehicles pass through tolling zones at highway speeds, using exclusively electronic toll collection and video tolling, without manual toll collection.

(c) “Authority” means the Indiana Finance Authority, a body politic and corporate created by Indiana pursuant to IC 4-4-11-4.

(d) “Away transponders” means transponders or tags issued by or on behalf of another tolling entity (other than the states’ parties or the toll operator for the Ohio River Bridges Project) which may be used to pay a toll during a crossing.

(e) “Business rules” means a set of policies and procedures established from time to time by the tolling body pursuant to a toll policy agreement of the states’ parties that defines how the toll transactions will be processed.

(f) “Chronic violator” means a violator with an unpaid balance of tolls and fees in excess of \$250.

(g) “Commercial account” means a transponder account covering five (5) or more registered vehicles.

(h) “Crossing” means a vehicle transit on any of the Ohio River Bridges, whether driven or towed, through a gantry or lane controller system for electronic toll collection or video tolling.

(i) “DMV” means the Indiana Bureau of Motor Vehicles, the Indiana Secretary of State, the Indiana Department of Revenue, the Kentucky Division of Motor Vehicle Licensing and any department or agency of any other state with jurisdiction over vehicle registration.

(j) “Downtown crossing” means the portion of the Ohio River Bridges project that involves (i) the reconstruction of and operational improvements to the Kennedy Bridge, (ii) the interchange where I 64, I 65 and I 71 converge on the south side of the Kennedy Bridge in downtown Louisville, Kentucky, (iii) the new downtown I 65 bridge and (iv) the reconstructed I 65 approach in Indiana.

(k) “East end crossing” means the portion of the Ohio River Bridges project that involves the new east end bridge connecting the Gene Snyder Freeway (KY 841) to the Lee Hamilton Highway (SR 265) along with the approaches in Indiana and Kentucky.

(l) “Electronic toll collection” means a toll collection method in which vehicles are equipped with prepaid transponders that transmit both vehicle and account details through a reader located in or near the toll lane, after which the appropriate toll is then debited from the motorist’s prepaid account.

(m) “Exempt crossing” means a crossing by registered or listed vehicles of the Transit Authority of River City or a successor agency or by registered or listed police, fire, ambulance or other emergency vehicles.

(n) “Extraordinary services” means account administrative activities required or requested by a customer other than electronic or online account administrative services, such as mailing of printed account statements and other similar activities.

(o) “Fees” means fees or charges incurred by a motorist in connection with the attempted collection by the authority, any states’ parties or operator of tolls, fees for a toll violation or fees and fees or charges for the administration of accounts on the Ohio River Bridges.

(p) “Frequent user discount” means any program providing for discounted tolls based on frequency or volume of crossings recorded on a transponder.

(q) “Home transponders” mean transponders or tags issued by the states’ parties or the toll operator on behalf of the states’ parties (which may include transponders eligible for use at other toll facilities).

(r) “INDOT” means the Indiana department of transportation as established in IC 8-23-2-1, acting directly or through its authorized representative.

(s) “Joint Board” means the body by that name established under an interlocal agreement among the states’ parties regarding the completion and administration of the Ohio River Bridges.

(t) “KPTIA” means the Kentucky Public Transportation Authority, one of the states’ parties.

(u) “KYTC” means the Kentucky Transportation Cabinet, one of the states’ parties.

(v) “Kennedy bridge” means the John F. Kennedy Memorial Bridge over the Ohio River, providing south bound traffic on I 65 between Indiana and Kentucky.

(w) “Motorist” means the registered owner of a vehicle engaged in a crossing as shown in the records of the applicable DMV.

(x) “Private account” means an account owned by a natural person for up to four (4) vehicles.

(y) “Ohio River Bridges Project” means the cross river mobility project connecting Louisville, Kentucky and Southern Indiana consisting of the east end crossing and the downtown crossing.

(z) “Online” means posted on designated websites for the Ohio River Bridges Project.

(aa) “Reciprocal agreement” means agreements among or between any of the states’ parties and appropriate DMV or departments of other states pursuant to which registration information on motorists may be shared for collections of tolls and fees or enforcement of toll violations, or pursuant to which interstate agreements for mutual enforcement of toll violations may occur.

(bb) “Registered video tolling account” means a prefunded video tolling account, pursuant to which tolls are automatically debited from the account upon identification of registered license plate numbers.

(cc) “States’ parties” means, collectively, the IFA, INDOT, KPTIA and KYTC, acting through the joint board or tolling body created pursuant to an interlocal agreement among the states’ parties.

(dd) “Toll” means the user fee to be paid for the privilege of using any of the Ohio River Bridges.

(ee) “Toll operator” or “operator” means a person or entity retained by the states’ parties to manage toll operations, collection and enforcement on any of the Ohio River Bridges, and initially means the toll system provider approved by the Joint Board on March 12, 2015.

(ff) “Toll rates” means toll rates established by the tolling body and published online.

(gg) “Toll violation” means the failure by a motorist to pay a toll due when due after a crossing, which is a moving violation and a class C infraction under IC 9-21-3.5-9(b) and a violation under KRS 175B.040(4).

(hh) “Tolling body” means the body by that name established by the states’ parties under an interlocal agreement which is designated for establishing toll policy for the Ohio River Bridges.

(ii) “Vehicle” means every device (motorized or nonmotorized) in, upon, or by which any person or property is or may be transported, towed or drawn upon an Ohio River Bridge.

(jj) “Vehicle category” means the differentiation of vehicles for purposes of toll rate classifications as set forth in Rule/Regulation 4-1(a).

(kk) “Video tolling” means a toll collection method involving the assessment of tolls against a motorist engaged in a crossing by virtue of video, photograph, laser, in ground loops and other license plate recognition technology, including future technology developed for that purpose, other than electronic toll collection.

(ll) “Violator” means a motorist who has committed a toll violation.

**Rule/Regulation 2. Applicability; Bi-State Governance**

Sec. 1 These rules/regulations apply only to the Ohio River Bridges Project.

Sec. 2 The states’ parties have entered into various agreements among each other with respect to development, tolling operations and governance of the Ohio River Bridges, including a bi-state development agreement, an interlocal cooperation agreement and a toll policy agreement. Pursuant to an interlocal cooperation agreement, a joint board and a tolling body have been created and authorized to provide for the exercise of certain shared powers of the states’ parties with respect to the Ohio River Bridges Project, including powers to establish tolls, using all-electronic tolling for the Ohio River Bridges Project, the power to charge and collect tolls and fees for administrative and operational expenses and for toll violations, the power to utilize the services of a toll operator in connection with the Ohio River Bridges Project and the power to enforce collection of tolls and fees by the enforcement of infractions or violations or the institution of suits to collect debts representing tolls and fees. It is understood that powers granted to any of the states’ parties hereunder, or by law, may be exercised pursuant to the interlocal agreement, at the direction of the joint board or tolling body, by any of the states’ parties, by the toll operator, acting on behalf of the states’ parties, or by all of the states’ parties.

**Rule/Regulation 3. Tolls**

Sec. 1. Each crossing (other than an exempt crossing) shall result in a toll, payable at the applicable toll rate. The registered owner of a vehicle engaged in a crossing shall be responsible for payment of the toll. Failure to pay the toll in a timely fashion will result in the imposition of additional fees. Failure to pay tolls and fees will lead to a toll violation and other enforcement actions as set forth herein.

**Rule/Regulation 4. Toll Rates and Adjustments**

Sec. 1. (a) Toll rates shall be set and charged in accordance with different vehicle categories, as follows. Initially there will be three categories.

- (1) Category 1 -- passenger vehicle,
- (2) Category 2 -- medium truck, and
- (3) Category 3 -- heavy truck.

(b) A vehicle includes any vehicle being towed for purposes of axle count.

(c) The tolling body may from time to time change the number and characteristics of vehicle categories. The tolling body may from time to time determine the vehicle characteristics applicable to each category. Information recording vehicle categories shall be available online.

(d) Loop detectors may be used to establish the vehicle category for a motor vehicle engaged in a crossing. Vehicle category may also be established through the use of laser scanner systems, video images and other reliable technologies, as available from time to time.

Sec. 2. Within each vehicle category, different toll rates may be set and charged depending on the method of payment of tolls, whether by transponder account, registered video account, or unregistered video tolling. No manual or cash options for toll payment will be available on the Ohio River Bridges Project.

(a) Category 1. The following toll rate variations may be available:

- (1) frequent user discount,
- (2) registered transponder account,
- (3) registered video tolling account, and
- (4) unregistered video tolling.

(b) Category 2. The following toll rate variations may be available:

- (1) registered transponder account,
- (2) registered video tolling account,
- (3) unregistered video tolling.

(c) Category 3. The following toll rate variations may be available:

- (1) registered transponder account,
- (2) registered video tolling account,
- (4) unregistered video tolling.

(d) Other differentiators. Toll rates for each vehicle category may also be differentiated based on time of day or congestion tolling mechanism as available and appropriate pursuant to action by the tolling body.

(e) Rates. Toll rates and applicable variations or differentiations shall be established from time to time by the tolling body. Not all variations or differentiations permitted under these rules/regulations are required to be utilized. Toll rates in effect from time to time shall be posted online.

(f) Adjustments. The tolling body may establish mechanisms for automatic adjustments to toll rates. The tolling body may otherwise change toll rates, or may change toll rate classifications or variations on rates within classifications. Notice of any mechanisms for automatic adjustment, adjustments, changes or modifications shall be available online.

(g) Resolution TB 2016-1. Tolling Body Resolution TB 2016-1 has established initial toll rates as required by Rule/Regulation 4.2(e) and initial adjustment mechanisms as required by Rule/Regulation 4.2(f). Changes to the initial toll rates and the initial adjustment mechanisms may be made by the tolling body.

(h) Interoperable Network. One or more of the states' parties (or the toll operator on their behalf) may enter into an agreement with or among other tolling entities for participation in an interoperable network for electronic toll collection, in which case the business and operating rules applicable to such network will apply to tolling on the Ohio River Bridges Project.

#### **Rule/Regulation 5. Transponders and Transponder Accounts**

Sec. 1. The toll operator or the states' parties may charge a fee for the acquisition of a home transponder. The type of transponder acquired by a motorist will not affect the applicable toll rates to be charged.

Sec. 2. Accounts for motorists with home transponders may include multiple transponders and multiple vehicles, as established in business rules. Accounts shall only apply to vehicles in the same vehicle category. Certain home transponders may be limited to use by a single vehicle while others may be authorized for multiple vehicles, as established in the business rules from time to time.

Sec. 4. Home transponders may be obtained, and transponder accounts may be opened, at any customer service center, designated retail facility or outlet operated by the toll operator, or online from the toll operator or the states' parties.

Sec. 5. In order to encourage the creation of transponder accounts and the use of home transponders by motorists, the lowest toll rate will be offered within each vehicle category to owners of transponder accounts. Transponder accounts must be prefunded, as provided in the business rules. A crossing by a motorist using a home or away transponder with a valid prefunded home or away transponder account will result in the automatic electronic debit of the toll against the transponder account balance.

Sec. 6. Two types of home transponder accounts may be established:

- (a) Private accounts intended primarily for category 1 vehicles and
- (b) Commercial accounts available for all vehicle categories.

Sec. 7. An owner of a private account may qualify for the frequent user discount through frequency of usage. No frequent user discount is available to owners of commercial accounts.

Sec. 8. All owners of private accounts which or which do not meet the conditions of a frequent user discount program and all owners of commercial accounts will participate in the applicable standard transponder account program.

#### **Rule/Regulation 6. Video Tolling**

Sec. 1. Crossings not recorded from a home transponder or away transponder, and for which no currently valid transponder account is associated with the vehicle license plate number, shall be subject to video tolling at the then applicable toll rates for the applicable vehicle category. Crossings using a valid transponder account for which a transponder reading is not

obtained may be charged a toll at the higher registered video toll rate as provided in the business rules.

Sec. 2. A crossing shall be evidenced, in addition to a crossing recorded by a transponder reading, by video or photographic captures of license plate images using a license plate recognition system, or such other method as may be technologically reliable, which shall be compared by the toll operator (or its agents) against the license plate and registration data bases available to the toll operator.

(a) License plate images may be captured through license plate cameras (both front and rear enforcement cameras) mounted in toll gantries, and otherwise as appropriate.

(b) License plate images may be stored electronically. Images may be processed using an optical character recognition technique or human image review.

(c) License plate images shall be cross checked by the toll operator with license plates on file for registered video tolling accounts. If necessary, the toll operator will request a look-up from the applicable DMV, or other available sources.

(d) If the motorist does not have a registered video tolling account, or such account is not sufficiently prefunded, an initial toll invoice will be sent in a timely fashion to the motorist for the identified vehicle engaged in a crossing in accordance with Rule/Regulation 9 below.

Sec. 3. (a) The states' parties will make such databases for vehicles registered in the respective states available (or cause their respective DMV to make available) to the toll operator for license plate searches on a daily basis or otherwise as set forth in the business rules or in an agreement with the DMV.

(b) The states' parties will use their best efforts to enter into (or cause the toll operator on behalf of such entities to enter into) reciprocal agreements with other states allowing for license plate and registration searches on a basis sufficiently frequent to allow for efficient identification of vehicles registered in states other than Kentucky and Indiana.

### **Rule/Regulation 7. Registered Video Accounts**

Sec. 1. In recognition of the need for alternatives to transponder accounts, motorists may register vehicles for registered video tolling accounts in accordance with the procedures set forth in the business rules, which shall provide for registration of the identity of the motorist, license plate information, vehicle identification number(s), address and other contact information, and shall be either prefunded or include expedited payment mechanisms.

Sec. 2. Registered video tolling accounts may include multiple vehicles, as established in the business rules.

Sec. 3. Tolls shall be charged to the owner of the registered video tolling account upon license plate look-up based on video or photographic captures of license plate information using a license plate recognition system, or such other method as may be technologically reliable.

## **Rule/Regulation 8. Fees**

Sec. 1. Fees may be established in connection with (i) collection activities in amounts designed to reflect increased costs of collection and to encourage use of transponders, (ii) toll violations, including prosecution thereof and (iii) the administration of customer accounts, including:

- (1) inactive accounts,
- (2) extraordinary services,
- (3) account maintenance,
- (4) insufficient funds fees and
- (5) transponder acquisition or rental.

Sec. 2. A schedule of fees shall be established from time to time by the tolling body. Fees currently in effect shall be posted online. A schedule of the then currently applicable tolls and fees shall be made available by the toll operator to any member of the public on request.

## **Rule/Regulation 9. Other Video Tolling Procedures**

Sec. 1. After identification of the motorist with respect to a vehicle which has made a crossing without a prepaid transponder account and for which no registered video tolling account exists, the toll operator shall send an initial invoice notice for the unpaid toll, specifying a due date not later than 30 days after the date the invoice is received, in accordance with the specifications of the business rules. The invoice shall provide evidence of the location, date and time of the crossing, shall provide notice to the motorist of the opportunity for an administrative hearing to dispute the facts regarding whether the motorist has engaged in a crossing for which a toll is owed, and shall provide notice that failure to pay the toll when due shall lead to the imposition of fees, as provided in the business rules. The invoice shall also notify the motorist of the availability of lower cost registered video tolling accounts and transponder accounts. Deficiencies in the form of the invoice shall not absolve the motorist from the obligation to pay the toll.

Sec. 2. If a toll is not paid by its due date, a second invoice notice of toll due may be sent, specifying a due date not later than 30 days after the date the second invoice is received, and notifying the motorist that failure to pay the toll when due will result in the imposition of fees as well as the amount thereof.

Sec. 3. Failure of a motorist to pay a toll by an applicable due date shall result in the imposition of fees. Fees may be based on either the number of tolls owed or the number of invoices. The toll operator shall send an invoice (in accordance with the procedures set forth in the business rules) to the motorist setting forth past due tolls and accrued fees, which shall specify a payment due date not more than 30 days after transmittal of the invoice. The invoice notice shall inform the motorist that failure to pay all amounts due may result in additional fees



and further collection and enforcement activities in accordance with Rules/Regulations 9 and 10 hereof.

Sec. 4. If a motorist receiving an invoice notice pursuant to Section 1 or Section 2 above elects to dispute the assertion that a toll is due, the motorist may request an administrative hearing in accordance with the procedures noted in the invoice notice. The administrative hearing shall be convened and conducted in accordance with KRS Chapter 13B (or corresponding provisions of Indiana law, if any).

(a) The sole purpose of an administrative hearing is to resolve factual disputes over whether the motorist owes a toll.

(b) A motorist who receives an invoice may dispute the toll only on the basis:

(1) That the license plate was misidentified,

(2) That the motorist was incorrectly identified as the registered owner of the vehicle,

(3) That the vehicle shown on in the image is not the vehicle to which the license plate has been assigned,

(4) That the vehicle engaged in the crossing had been sold, transferred or stolen at the time of the crossing, or

(5) That the vehicle class has been misidentified.

(c) Notice of the time, location and hearing officer(s) conducting the administrative hearing shall be provided by certified mail by the states' party responsible for conducting the administrative hearing at least 20 days in advance of the administrative hearing.

(d) Neither the toll operator nor the states' parties shall be required to be present for the administrative hearing, provided that the toll operator shall submit (i) the video or photographic images of the crossing in question (including time, date and location of the crossing), (ii) evidence of the license plate look-up and registration records from the applicable DMV, and (iii) evidence of mailing of the required information to the assigned hearing officer and the motorist at least 10 days prior to the administrative hearing.

(e) A motorist may rebut evidence of a toll due by offering evidence on matters described in paragraph (b) above in writing to the hearing officer and the toll operator.

(f) A motorist may appeal an adverse finding to the applicable court in accordance with KRS Chapter 13B or corresponding provision of Indiana law, if any, and the applicable administrative rules.

(g) A motorist who is unsuccessful in a challenge to the imposition of a toll at an administrative hearing may be liable for additional fees as set forth in the business rules and as

published online. A motorist who appeals an adverse decision at an administrative hearing may also be responsible for court costs and additional fees associated with such appeal.

### **Rule/Regulation 10. Further Enforcement Procedures**

Sec. 1. Failure to pay a toll by the date set in the second invoice notice described above shall result in the declaration of a toll violation and the issuance by the toll operator on behalf of the states' parties of a violation notice therefor. Violations notices may be declared under any applicable statutes. Outstanding tolls and fees specified in a violation notice shall be due and payable not more than 30 days after receipt of the violation notice. Continued failure to pay a violation notice in a timely manner shall result in additional enforcement activities.

Sec. 2. The toll operator will notify the DMV of the state in which the motorist has registered the vehicle of the occurrence of the toll violation and that outstanding tolls and fees remain due and payable. The toll operator will request the applicable DMV to impose a hold on renewal of vehicle registration (or to suspend vehicle registration if permitted under applicable state law), or withhold vehicle registration renewal until payment in full of all outstanding tolls and fees.

Sec. 3. The toll operator shall make available to the states' parties the following information in connection with the request described in Section 2.

1. the photographic evidence of crossing and additional information re: date, time and place,
2. a report whether an administrative hearing was requested in accordance with these rules/regulations and the invoice,
3. evidence in the form of a computer record of license plate look-up identifying the registered owner,
4. evidence in the form of a computer record of transmittal of invoices including violation notices,
5. the results of any administrative hearing, and
6. tolls and fees currently due and payable, which shall be periodically updated by the toll operator until payment in full is made.

Sec. 4. The states' parties and the toll operator may engage collection agencies to pursue collection of outstanding tolls and fees and may authorize the collection agency to assess reasonable additional charges against the toll violators for the collection of tolls and fees.

Sec. 5. The toll operator will periodically notify the states' parties of chronic violators, and request further enforcement actions by each state against violators from each state (and others as the joint board or tolling body shall determine) in accordance with applicable state laws or reciprocal agreements, including suits for collection of debts, prosecutions in state courts, instructions or requests to state police departments to stop and detain violators and issue citation

or a summons to appear before a court or an authorized traffic violations bureau and other available collection remedies and enforcement actions.

Sec. 6. The states' parties will use their best efforts to enter into (or to cause the toll operator on behalf of such entities) to enter into reciprocal agreements with other states allowing for additional enforcement mechanisms for the efficient collection of tolls and fees incurred by residents of states other than Indiana and Kentucky.

#### **Rule/Regulation 11. Exempt Crossings**

Sec. 1. No toll shall be owed by the Transit Authority of River City as a result of crossings by eligible vehicles or by the registered owner of eligible police, fire, ambulance, or other emergency vehicles engaged in exempt crossings. The business rules shall provide mechanisms for the identification, listing or registration on the books of the toll operator of eligible vehicles to qualify for exempt crossing status.

#### **Rule/Regulation 12. Signage**

Sec. 1. The states' parties or the toll operator on behalf of the states' parties shall install signs in advance of last highway exits before the East End Crossing and Downtown Crossing providing notice of the existence of all-electronic tolling on the Ohio River Bridges Project.

#### **Rule/Regulation 13. Confidentiality**

Sec. 1. Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under IC 5-14-3 or KRS 175B.040(6).

#### **Rule/Regulation 14. Evidentiary Presumptions**

Sec. 1. Proof that the motor vehicle was driven or towed through the toll collection facility without payment of the proper toll may be shown by a video recording, a photograph, an electronic recording, or other appropriate evidence, including evidence obtained by an automated traffic law enforcement system.

Sec. 2. A computer record of a DMV, a states' party, or the toll operator is prima facie evidence of its contents, including with respect to vehicle registration records that the toll violator was the registered owner of the vehicle at the time of the underlying event of nonpayment.

Sec. 3. Receipt of a notice (including a violation notice) or an invoice shall be presumed to have occurred on the fifth day following mailing.