
Establishment of Method for Setting Variable User Fees on I-24 Southeast Choice Lanes

Statutory Authority:

The Transportation Modernization Act of 2023 ([Public Chapter 159](#)) provided the Tennessee Department of Transportation (“TDOT”) with the authority to establish user fee facilities (“Choice Lanes”) on new facilities opened on or after July 1, 2023, and on existing facilities where one or more new vehicle lanes are added to the facility on or after July 1, 2023.

By adding capacity to this heavily traveled roadway, operations are expected to improve in this major growth area. Choice Lanes provide another option for motorists to bypass congestion, allowing motorists to maintain consistent travel times. The Choice Lanes would be new, optional lanes designed, built, financed, operated, and maintained by a private-sector partner through a Public-Private Partnership (P3).

TCA 54-3-104(e) allows TDOT, with the approval of the Board, to set user fees or establish the method for setting variable user fees for the use of managed lanes, subject to resolutions or indentures authorizing bonds. With respect to a user fee imposed or collected on a user fee facility on a state highway that is subject of a user fee development agreement, TCA 54-3-104(f) requires that, as applicable, such user fees (along with allowable increases) or methods for setting variable user fees on managed lanes, be set forth in such user fee development agreement.

Background:

TCA 54-3-104 requires that, before the development of a user fee facility project, and prior to the inclusion of such user fee facility project in TDOT’s transportation improvement plan, the Board approve the development of such user fee facility project. On February 26, 2024, the Board approved further development of a user fee facility along the I-24 corridor between I-40 in Nashville (in Davidson County) and I-840 in Murfreesboro (in Rutherford County) (such user fee facility, the “I-24 Southeast Choice Lanes”).

TDOT is now conducting a procurement for a private entity (the “Developer”) to design, build, finance, operate, and maintain the I-24 Southeast Choice Lanes pursuant to the terms of a concession agreement or user fee development agreement (the “Concession Agreement”) pursuant to TCA 54-3-103. A variable user fee will be charged for use of the I-24 Southeast Choice Lanes. In accordance with TCA 54-3-104, the Concession Agreement will set forth the method for setting variable user fees to be charged for use of the I-24 Southeast Choice Lanes.

TDOT’s Proposed Method for Setting Variable User Fees for the I-24 Southeast Choice Lanes

A key operational requirement for operation of the I-24 Southeast Choice Lanes to be specified in the Concession Agreement is that the Developer must manage traffic along the Choice Lanes to maintain a minimum average operating speed of 45 miles-per-hour throughout the day (the “Average Operating Speed Requirement”). Under the terms of the Concession Agreement, the Developer will be entitled to adjust user fee rates throughout the day, subject to and otherwise in accordance with the method for setting variable user fees specified in the Concession Agreement, to manage demand to satisfy the Average Operating Speed Requirement.

The method for setting variable user fees to be specified in the Concession Agreement will include the following elements. TDOT will set one or more maximum user fee pricing thresholds to optimize utilization of the Choice Lanes, thereby decreasing congestion in the general purpose lanes. User fees

may be set and adjusted in real time throughout the day within such maximum user fee pricing thresholds so as to optimize utilization and enable the Average Operating Speed Requirement to be satisfied. In addition, TDOT will set an upper threshold for user fees. If user fees must be increased to an amount that exceeds such upper threshold in order for the Average Operating Speed Requirement to be satisfied, TDOT will receive a portion of the marginal revenues generated by increasing user fees in excess of such upper threshold. TDOT shall report to the Board annually on implemented elements of the User Fee Methodology.

Heavy Commercial Vehicles (HCVs), classified as FHWA Classes 5 through 10, are permitted to use the I-24 Southeast Choice Lanes. Under the method for setting variable user fees, HCVs will be subject to a variable user fee that includes a multiplier applied to the user fee rate charged for passenger vehicles. TDOT will establish a permissible range for such multiplier. The Developer will set the multiplier within such permissible range, and the multiplier set by the Developer may vary between peak and off-peak periods to account for the differing impacts of HCVs on traffic flow in the Choice Lanes.

Question Before the Board:

Does the Board approve of TDOT's proposed method for setting variable user fees for the I-24 Southeast Choice Lanes described herein?