March 13, 2024

Chair Amy Sheldon
House Committee on Environment and Energy
Vermont House of Representatives
115 State St
Montpelier, VT 05633

Vice Chair Laura Sibilia
House Committee on Environment and Energy
Vermont House of Representatives
115 State St
Montpelier, VT 05633

RE: Opposition to H. 657, An act relating to the modernization of Vermont's communications taxes and fees

Chair Sheldon and Vice Chair Sibilia,

On behalf of CTIA®, the trade association for the wireless communications industry, I write in opposition to H. 657 related to communications taxes and fees.

At a time of exploding consumer demand for wireless services, our industry is working hard to deploy and upgrade infrastructure and create jobs and economic growth for Vermont communities. Success in these efforts depends on a tax, fee and regulatory framework that welcomes investment. This predictability fuels economic growth in Vermont, where our industry supports nearly 7,000 jobs and generates $500 million in state GDP growth. The regulatory and tax policies included in H. 657 will only slow deployment and put economic growth at risk.

State Right-of-Way Inventory

Our members recognize the important role that state government plays in overseeing State-owned rights-of-way (ROW) in Vermont. However, we have serious concerns that Section 14(e) of this bill related to providing "a detailed inventory of all property in the State right-of-way" is redundant with already existing state government processes required under Vermont state law. Additionally, the way Section14(e) prescribes this data collection is vague and unclear.

First, Section 14(e) appears to be redundant and unnecessary given existing policy described in § 30 V.S.A. 227b. Under current state law, the Secretary of Administration is designated as the exclusive licensing and leasing agent for wireless facilities on all state property, including state land, structures and roads and property under the jurisdiction of VTrans. Based on section 227b(a)(1), the Secretary of Administration should already have all the leasing and licensing information necessary for any kind of information collection. Additionally, for any provider whose small cell sites are permitted pursuant to Vermont's Section 248a, the Department as well as the Public Utilities Commission already has this locational and equipment-based information. Those agencies should be able to compile the information using ePUC without imposing a new and entirely separate regulatory process on wireless carriers.

Second, the language in Section 14(e) – particularly the terms "categorization of all communications property by type" and "a description of the service or services enabled by such property" – is exceptionally vague and unclear. As an example, what "type" of property and for what service or

services is a fiber optic line associated with a pole-based wireless facility in the public right of way? Even if the question could be answered, the purpose for such categorizations is also unclear.

Given existing Vermont law, the highly complex nature of wireless infrastructure and the comparative vagueness of Section 14(e), we strongly oppose this data collection effort as currently drafted.

Universal Service Fund Charge

H.657 would change the basis for the imposition of the state USF charge from a percentage of retail voice telecommunications services to a flat amount per access line for postpaid wireless and other telecommunications services. Our members have a number of concerns with this approach. First, a flat per-month charge would shift more of the burden to low-and moderate-income families with family share wireless plans because of how wireless pricing plans are structured. Typically, the first wireless access line is priced higher than additional lines added to the same plan. With a percentage imposition, the fees on these lower-priced additional lines are proportionately lower. That would no longer be the case with this change. Second, this policy would shift the burden from wireline to wireless and from businesses to consumers. Businesses spend more per line on telecommunications service than consumers, and businesses generally spend more on wireline services than wireless services. Therefore, a shift to a flat per-line charge would shift more of the burden for the USF from businesses to consumers.

We appreciate that the current version of the bill 1) mandates that fees on consumers should be limited to equipment and personnel costs of staffing these call centers, 2) retains the authority of the legislature to set the USF rate in statute and 3) retains the current percentage-based approach for prepaid wireless service. Nonetheless, we remain concerned that this policy shift will have a disproportionate impact on vulnerable families in Vermont.

Taxing the Tangible Personal Property of Wireless Providers as Real Estate

The wireless industry is opposed to provisions in H. 657 that would tax the personal property of wireless providers as real property. This would treat the tangible personal property of wireless and other telecommunications providers differently than other competitive businesses in Vermont,

Under current law (32 VSA 3848-3849), the Legislature grants municipalities the authority to tax or exempt business personal property. Currently, about one-fifth of Vermont cities and towns have elected to tax business personal property and the rest have elected to exempt such property. The list of municipalities that currently tax business personal property includes Barre Town, Brattleboro, Burlington, Montpelier, Rutland, and St. Albans City and Town.

Like all businesses, wireless providers pay property taxes on any real property that they own. In the municipalities that have elected to tax business personal property, wireless providers also pay the tax on machinery and equipment. This generally includes computer and other equipment at cell site locations, cable used to connect sites to the network backbone and machinery and equipment at switching sites. The personal property of wireless companies in municipalities that choose to tax business personal property is valued and assessed using the same depreciation schedules that apply to all other taxable business personal property. For example, the City of Burlington has a schedule that uses a common method for valuing business personal property – Replacement Cost New Less

Deprecation (RCNLD). Under RCNLD, the starting point for valuing equipment is the cost of that equipment "new" minus a depreciation schedule that varies from 5 years for computer equipment to 15 years for long-lasting equipment.

The wireless industry does not have concerns about paying personal property taxes in municipalities that have elected to tax the property of all businesses. However, H. 657 would treat wireless companies differently than other competitive businesses by deeming tangible personal property to be real estate and requiring wireless property to be centrally assessed by the Tax Department. Historically, states have used so-called "central assessment" to value the property of public utilities like telephone, gas, and electric companies as well as railroads that have infrastructure passing through many jurisdictions over rights-of-way. For example, if a railroad passes through a municipality, it is very difficult for local assessors to value a narrow strip of land. Under central assessment, the state sets the value for the entire enterprise and then apportions the values to the jurisdictions proportionally. Unlike railroads, wireless companies do not have the same type of interconnected networks that necessitate central assessment. It is straightforward for local assessors to value the property of each discrete wireless cell site and switching site using the same depreciation schedules that apply to other business personal property.

For these reasons, CTIA opposes H. 657.

Sincerely,

Jeremy Crandall

Jeremy Crandall
Assistant Vice President
State Legislative Affairs