



House Commerce Committee
Thursday, April 10, 2014
Telecommunications Permitting

Thank you for inviting us back to testify further regarding the Public Service Board process for permitting telecommunications facilities.

We have worked with the representatives of Verizon and AT&T to try to develop a common proposal for including municipalities in the PSB Certificate of Public Good process in lieu of letting the current sunset on prohibiting municipal regulation of telecommunications facilities take effect. We met a number of times in the last two weeks and worked in good faith on both sides to reach an agreement. We did reach agreement on a number of issues but have very different perspectives on a few key procedural matters.

There is a reason for those differences.

On the one side you have volunteer municipal boards and their one or two staff persons who are charged by their citizens with assuring both coverage for their municipality and that the impacts of development of that coverage are not out of proportion to the benefits realized therefrom. On the other side you have companies such as AT&T, a \$126 billion company, number 15 on the Forbes list of the World's Most Valuable Brands and Verizon, a \$115 billion company that is number 22 on the same list. The relative capacity of these two types of entities is wildly unbalanced in every way. The current PSB quasi-judicial process (with the emphasis on judicial) that requires detailed knowledge of the process, legal experience and expertise in telecommunications technology exacerbates that imbalance.

We believe that the Public Service Board Certificate of Public Good process is in dire need of recalibration. Our proposals relate to telecommunications applications of limited size and scope

as well as full applications. Based on the Public Service Department's numbers of 216 total applications having been filed in the three years since the PSB took over permitting, these proposals would have potentially affected 56 applications that were determined to be of limited size and scope or full applications.

We concur with the carriers that during the 45 day notice period (prior to applicant filing the application with the PSB)

- if requested, an applicant must attend one meeting with a municipality's select board, planning commission, or both in a joint meeting. Local officials would need to sort out amongst themselves which boards or commissions would attend that one meeting. This would be a public meeting as are all meetings at which a quorum of a municipal board or commission is present.

Prior to filing the application, the applicant carrier would have the benefit of the information from the meeting with the municipality and could make adjustments to the project. Upon filing the application, the 21-day comment period would begin. The municipality could review the filed application and exercise several different options, including:

Requesting that the PSB convene a public hearing to receive public comment and municipal recommendations orally and in writing. Upon request, the PSB shall hold a public hearing within 21 days of receipt of the request from the municipality. We differ with the carriers on what then must take place. We urge you to require that the PSB shall make findings that address each recommendation from the municipal planning commission or legislative body or both in its decision issuing the CPG.

We believe it is critical that the PSB directly address each recommendation or determination from the municipality and that those findings be included in the body of the CPG.

We also believe that the PSB should provide training on a regular basis about how to participate in a CPG process.

We urge the committee to require the PSB to define "substantial deference" in rules.

We support the proposal in the Senate Finance Committee to give party status as a right to municipalities in which a facility is proposed.

We believe that the PSB would be well advised to revisit the definition of "limited size and scope", which is currently 140' feet for a new facility and 200' for an improved or updated project. We do not know anyone in the real world who thinks that 140' in the air is "limited size and scope".

The VT Telecommunications Authority produced a map of areas served, projects in progress and targeted communities in June 2012. The website for that map is

http://www.telecomvt.org/sites/www.telecomvt.org/files/R4_768_200_Service_ByCensusBlock_06302012_FixedOnly_v2.pdf

We believe it would be very helpful to require the VTA or its successor to update that map on at least a bi-annual basis so that everyone discussing the issue of coverage will have access to reasonably current information.

Thank you for your consideration of these issues.

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