

**Comments on Amendment to H.117 proposed by Sen's MacDonald and Mullin  
Irv Thomae, Chair, ECFiber  
May 6, 2015**

For the record, my name is Irv Thomae. I have been a Norwich resident since 1975, and currently serve on ECFiber's volunteer Governing Board both as the delegate from Norwich and Chair.

ECFiber strongly supports the “MacDonald-Mullin amendment”, large parts of which were originally drafted at our request. To understand why, please bear with me for a quick summary of who and where we are.

ECFiber (formally, “East Central Vermont Community-Owned Fiber-Optic Network”) is a non-profit consortium of 24 municipalities, formed by Interlocal Contract just a few months before the financial collapse of September 2008. The primary motivation was, and still is, to provide full-speed broadband to rural areas that commercial entities deem inadequately profitable.

As you know, by law Vermont towns can own and operate telecomm networks for public use, but cannot fund them from local taxes. After some initial setbacks, in late 2010 we decided to build a small proof-of-concept network. We borrowed about \$900,000 from private sources, with which we built a central hub and 25 miles of fiber-optic cable, and started connecting customers. Since then, by regularizing a process of promissory-note financing, we have raised another five and a half million dollars from over four hundred people, mostly local, and chiefly in small multiples of \$2500. And we continued to build. We now offer full-speed broadband along 200 road-miles of cable, including 38 road-miles of leased strands within the VTA's Orange County Fiber Connector. We now offer full-speed broadband along 200 road-miles of network, with over 1000 customers connected, in parts of 12 towns. The revenue from user fees now covers all operating and debt service costs.

We expect to add another 100 miles of network during 2015, which will include leased strands within about 80 additional miles of dark fiber infrastructure now being completed by the VTA. (Incidentally, ECFiber investors have contributed \$200,000 toward that project.) However, even 300 miles will be only about 20% of all the road mileage in our territory. To finish the job more rapidly, and to make it easier for similar groups of municipalities in other parts of the state to supply true broadband service on their back roads as well, we are asking the Legislature for some non-monetary help.

Our primary request, embodied in the proposed Section 20, is a matter of organizational structure. ECFiber is currently organized under Vermont law as an “Interlocal Contract,” but institutional investors are much more familiar with Municipal Utility Districts. Now that we have proven our business model and reached adequate

size for serious discussions with larger-scale investors, that difference has become quite important.

Section 20 (pages 1-24 of the document before you today) authorizes formation of Telecommunications Union Districts, closely resembling to MUD's, with the very important exception that they cannot levy local taxes. (See enclosed chart.) It creates a general framework which can, by design, be used by groups of municipalities anywhere in the State.

Section 21 (on Page 24) is very brief, but essential as I will explain. Section 20 provides that two or more municipalities can form a Telecommunications District by duly warned regular or special Town Meeting vote. On March 3, 2015, five towns did so, in each case passing the required article by strong majorities. In accord with Section 20 and those Town Meeting actions, Section 21 recognizes the ECFiber Telecommunications District as duly established.

I'd like to point out that Sections 20 and 21 carry absolutely no cost to taxpayers. (See § 3056, pp 53-54.) They respect and uphold the existing statutory ban on supporting telecom networks from local taxes, and do not bestow any new powers either on ECFiber or on any other future Telecommunications Union District. Hence, they simply allow for an organizational structure that is more readily understood by potential investors from outside of Vermont.

We would like to suggest and support a few minor changes to the current draft. § 3069 (on page 57 of the current draft, line 17) says that the chairman shall be chief executive officer of the district; we believe this is not a good idea.

A question was raised yesterday about 3053c. That subparagraph is intended only to affect financing arrangements. We suggest revising the questioned line, at the bottom of page 49, from “legality or validity of obligations or long-term contracts or other contracts” to “legality or validity of obligations or other financing contracts”

Also, in Section 21 (Page 73), which recognizes the East Central Vermont Telecommunications District, we respectfully request that the last line be extended as follows:  
qualifies as a telecommunications union district under 30 V.S.A. Chapter 82, and may organize upon the effective date of this act.”

Thank you very much.

Irv Thomae  
Chair, ECFiber

Thomae, May 6, 2015

## Legal Structures for Municipal Infrastructure Jointly Built and Operated by Multiple Communities

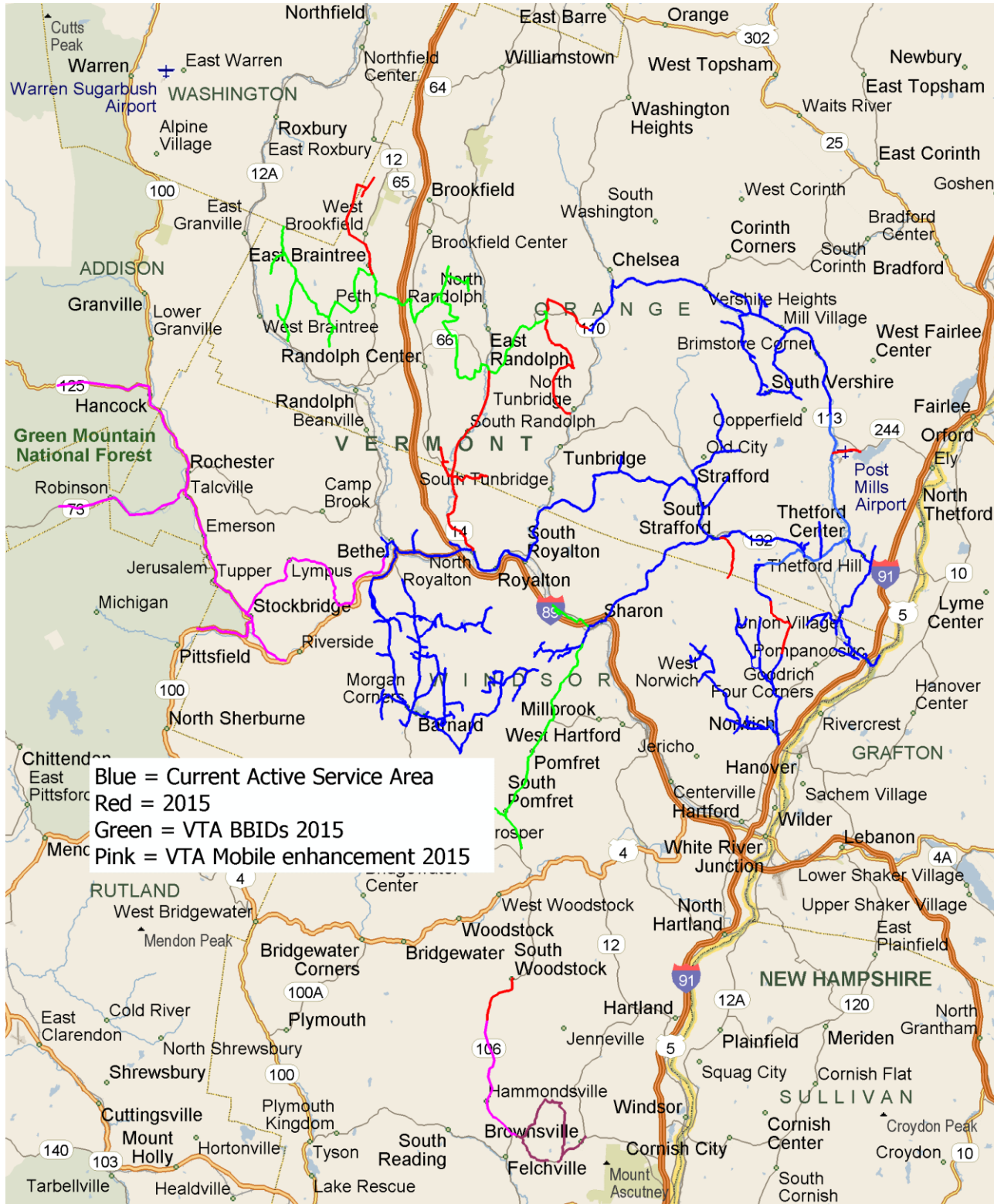
	<b>Conventional Municipal Utility Districts (e.g. Solid Waste) in Current Law</b>	<b>Interlocal Contracts (Current Law)</b>	<b>Telecommunications Union Districts (as Proposed)</b>
Has “virtual town” standing as a body politic	Yes	Not really	Yes
Can levy local taxes on its residents	Yes	No	No
Governance	Representatives of member towns, appointed by selectboards	Representatives of member towns, appointed by selectboards	Representatives of member towns, appointed by selectboards
Borrows against:	Full faith & credit of member towns	Revenues	Revenues
Are debt obligations of the larger entity also joint and several obligations of the member towns?	Yes	No	No
Operating costs paid from:	User fees and local taxes	User fees only	User fees only
Understood by institutional investors:	Yes	No (“Interlocal what???”)	Yes

Note: To save space within this chart, the word “town” has been used as shorthand for “municipality,” and therefore includes cities as well as Towns.

Similarly, the term “selectboard” has been used as a stand-in for “governing body”, i.e. “selectboard or council.”

### Appendix III - 2015 CURRENT SERVICE AREA AND EXPECTED BUILD ROUTES

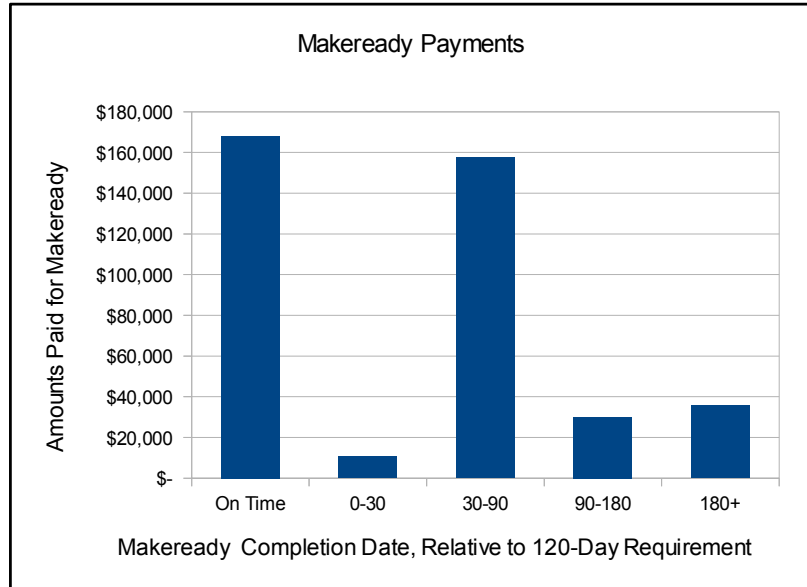
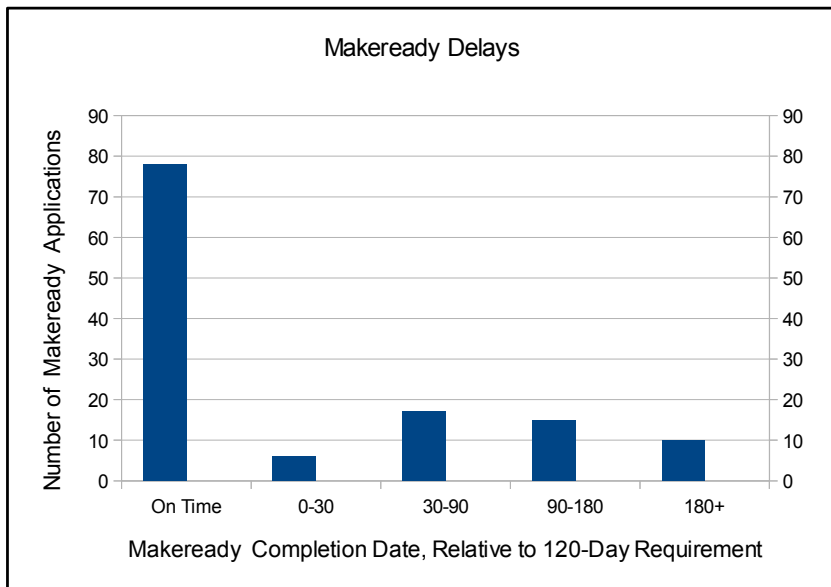
Legend: Blue = Current Service Area Available (March 2015);  
 Red = Planned Additional Routes for 2015/16  
 Brown = Municipal/Private partnerships - 2015 build (West Windsor)  
 Pink/Green = Vermont Telecom Authority routes



# Pole-Attachment Makeready Work: Completion Times and Payments

Compiled from 130 makeready payments made by ECFiber between January 2012 and May 2014

When Completed	Number of Applications	% of All Applic'ns	Makeready Payments	% of Total Payments	(time criteria used)	
On Time	81	62%	\$168,235	42%	0	
0-30	6	5%	\$10,699	3%	>0	<=30
30-90	18	14%	\$157,614	39%	>30	<=90
90-180	15	12%	\$29,960	7%	>90	<=180
180+	10	8%	\$35,692	9%	> 180	
<b>TOTAL</b>	<b>130</b>		<b>402,200</b>			



1. Each group of poles typically results in at least two applications and subsequent makeready payments, one to an electric company and one to the incumbent telephone provider.
2. This first-order analysis makes no attempt to trace dependencies, so it unavoidably ignores cases in which (e.g.) application 'A' is completed on time, but cable cannot be strung until 'B' is also complete. It therefore understates the full magnitude of the delay issue.
3. Similarly, the second graph, showing funds tied up in payments for overdue makeready work, understates the full economic impact of these delays. Delayed construction inevitably means delays in connecting customers and collecting service revenue. Those losses are significant, but cannot readily be quantified.