

M E M O R A N D U M

TO: Members of the House Committee on Commerce and Community Development

FROM: Charles Storrow, KSE Partners, LLP, on behalf of AT&T.

DATE: February 16, 2015

SUBJECT: Suggested Change to H.117

The purpose of this memorandum is to suggest that H.117 be amended to correct what AT&T believes is a significant technical drafting error.

30 V.S.A. § 7511, which is not amended by the bill, governs the priority in which funds are to be distributed from the Universal Service Fund. Specifically, that statute provides as follows:

(a) As directed by the Public Service Board, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

- (1) to pay costs payable to the fiscal agent under its contract with the Board;
- (2) to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;
- (3) to support the Vermont Lifeline program in the manner provided by section 7513 of this title;
- (4) to support Enhanced-911 services in the manner provided by section 7514 of this title;
- (5) to support the Connectivity Fund established in section 7516 of this chapter; and
- (6) to support the cost of Executive Branch activities as specified under section 7515a of this title.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the Board shall conduct an expedited proceeding to allocate the available funds, giving priority in the order listed in subsection (a).

Bill section 7 amends 30 V.S.A. § 7503 relative to the fiscal agent who administers the Universal Service Fund. On page 17 at lines 5-7 the bill provides as follows:

(f) The fiscal agent acts as a fiduciary and holds funds in trust for the ratepayers until the funds have been disbursed as provided pursuant to ~~sections 7511 through 7515~~ section 7515 of this chapter.

In AT&T's view the deletion of the reference to "sections 7511 through 7515," and in particular, the reference to section 7511, creates a confusing situation. Section 7511 which, appropriately, is not amended by the bill, governs the order of pay out from the Universal Service Fund. However, amending 30 V.S.A. § 7503(f) to delete the reference to section 7511, and instead just reference section 7515, which relates to the high cost program, is confusing at best and potentially negates the requirement that USF monies be disbursed in the order of priority provided for in 30 V.S.A. § 7511.

AT&T suggests that bill section 7's change to 30 V.S.A. § 7503(f) be as follows

(f) The fiscal agent acts as a fiduciary and holds funds in trust for the ratepayers until the funds have been disbursed as provided pursuant to ~~sections 7511 through 7515~~ section 7515 of this chapter.

Under this change only section 7511 is referenced, which is appropriate as it is the statute that specifies the order of pay out from the Universal Service Fund.

It should be noted that section 7511(a)(5) references, as the fifth priority of funding from the USF, the funding of the Connectivity Fund created by 30 V.S.A. § 7516. Under current law monies placed into that fund are split 50/50 between the Connectivity Initiative and the High Cost Support program (bill section 8 would change that ratio to 70/30). Accordingly, just referencing section 7511 in bill section 7's change to 30 V.S.A. § 7503(f) still provides for the funding of the Connectivity Initiative and the High Cost Support program.

AT&T has some other concerns with the wording with the bill, but would first like to have a conversation with the Department before presenting them to the Committee.