

April 26, 2016

VIA ELECTRONIC MAIL

The Honorable John Campbell
President Pro Tempore
Vermont Senate
115 State Street
Montpelier, VT 05633

The Honorable Shap Smith
Speaker of the House
Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Senator Campbell and Speaker Smith:

As Chairman of the Vermont Telephone Company, Inc. ("VTel"), I write to express my concerns about recent legislative attacks against my company and its employees. Specifically, I am referring to SR-13 and HR-19, which ostensibly involve the award that VTel received from the Rural Utilities Service ("RUS") under RUS's Broadband Initiatives Program ("BIP"). Both SR-13 and HR-19 are based on misguided and misinformed rhetoric, and the purpose of this letter is to set the record straight.

VTel was organized more than 20 years ago to buy 17,500 rural Vermont phone lines from GTE (now Verizon). With lots of hard work by our employees and a strong commitment to our customers, VTel has become a successful communications company by every measure. Indeed, VTel is often described as one of the most innovative independent rural communications companies in America.

Examples might help. VTel was the first company to offer Internet access in Vermont, making substantial investments to deploy broadband infrastructure in the State. We were first in Vermont with GigE to homes. We built America's first 100% 4G/LTE wireless broadband network. We were recently rated the fastest wire-based Internet provider and the second fastest wireless Internet provider in Vermont <http://www.speedtest.net/awards/us/vermont>. We have consistently achieved the highest customer satisfaction DPS ratings in Vermont. After losing wireline customers to our cable and wireless competitors for many years, we are proud to be showing actual growth (albeit small).

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VTel is well positioned for the technological and competitive challenges that lay ahead by virtue of the award it received under BIP, which was established pursuant to the federal American Recovery and Reinvestment Act of 2009. The overall award to VTel was approximately \$117 million, with approximately \$82 million allocated to deployment of a Fiber-to-the-Home network, and approximately \$35 million allocated to the deployment of a 4G/LTE mobile broadband network.

VTel's Fiber-to-the-Home project is complete. As part of this project, we constructed nearly 1,200 miles of fiber to connect homes in VTel's territory, delivering GigE to each of those homes at \$35 a month, with this price described in several widely-read technology blogs as one of the best Internet bargains in the world.

VTel's 4G/LTE project has been more challenging. Our original proposal was to build 119 wireless sites throughout Vermont and New York. Fine-tuning the design to accommodate the Green Mountain State's rigorous terrain resulted in our constructing 131 sites using RUS funds, 123 of which are serving customers today. VTel also used its own funds to construct an additional 21 sites to serve its customers, 12 of which are providing commercial service today.

VTel takes seriously its obligations under BIP. It has worked cooperatively with RUS for more than five years in an effort to make sure those obligations are met. VTel regularly provided information to and met with RUS to update the agency on its deployment activities and responded to various questions from the agency about project milestones. An RUS representative has inspected VTel's wireless sites to confirm the progress being made. Under the circumstances, it should be no surprise that RUS determined in September 2015 that VTel's BIP project was considered complete.

Furthermore, RUS is an expert agency overseeing billions of dollars in loans and grants to build out communications infrastructure throughout rural America. RUS has the responsibility to ensure that these funds are being used appropriately – a responsibility the agency has discharged admirably in supervising VTel's BIP project in Vermont.

Despite (or possibly in ignorance of) these facts, the House passed and the Senate has proposed resolutions that claim falsely that VTel's "wireless project has failed to meet the stated objectives of the grant to the detriment of many expectant Vermont communities." To put the blatant falsity of this claim in proper context, it is worth pointing out the specific commitments that VTel made to RUS, all of which VTel has honored.

First, as noted above, VTel committed to use RUS funds to deploy 119 wireless sites. It has actually constructed 152 sites.

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Second, VTel committed to bring rural broadband to 61,497 homes, businesses, and institutions located in a 5,055 square mile footprint. Today, VTel can provide wireless service to well in excess of 70,000 homes, businesses, and institutions located in this geographic area.

Third, VTel committed to "Near-100% coverage of the proposed service area" with 700 MHz radio signals. Today, VTel covers 4,782 of the proposed 5,055 square miles, or 95% of the RUS service area. The total geographic area in Vermont and New York that VTel's wireless network is capable of serving is 9,228 square miles, more than 95% of an area comprising 9,673 square miles.

VTel committed to "up to 1.5 Mbps downstream and 1.5 Mbps upstream" on a "Best efforts" basis for \$10, and "10 Mbps downstream and 5 Mbps upstream" on a "Best efforts" basis for \$35. Many VTel wireless customers experience speeds of 21+ Mbps down, and 5+ Mbps up, and nearly every VTel wireless customer receives download performance beyond the levels to which VTel had committed.

The House and Senate Resolutions refer to "33,000 unserved households" purportedly in danger of not receiving "a reliable signal" from VTel. While unclear where this number came from or how it relates to VTel's commitments to RUS, it appears to be based on data from our DPS, assembled by Stone Environmental, which listed 36,232 rural homes in Vermont that purportedly lack broadband. Some members of the Vermont General Assembly have blamed VTel for leaving these 36,232 homes unserved, with some going as far as to report to newspapers, and on blogs, that Vermonters unable to sell their homes were betrayed by VTel.

The Stone Environmental report paints a very dire picture of broadband in rural Vermont. However, the facts on the ground are very different, because the report miscounts "unserved" homes by ignoring any and all wireless Internet services offered by AT&T, Verizon, and US Cellular, among others, including VTel Wireless.

When asked to disclose the addresses of these 36,232 homes that allegedly do not have broadband access so that their "analysis" could be confirmed, the legislators and government spokespersons distributing the Stone Environmental report refused. VTel subsequently filed two FOIA requests seeking this information, which were denied because the information allegedly contains "competitively sensitive information (i.e. trade secrets)" and its "disclosure would violate a person's right to privacy or produce public or private gain." In fairness to the DPS, they initially offered to meet this FOIA request but were apparently over-ridden. There is something seriously wrong with policy makers using inaccurate data, while simultaneously withholding such data from public inspection and scrutiny.

The House and Senate Resolutions also urge RUS to "conduct a comprehensive financial and performance audit" of VTel. Audits are good. Audits are essential. That's partly why VTel, in

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2010, hired Price Waterhouse's federal project specialists to work alongside our longtime auditors to ensure that the company was meeting the letter and spirit of its federal obligations.

However, by urging an audit by RUS, SR-13 and HR-19 obviously seek to suggest to Vermonters, potential VTel customers, and federal officials, in a high-profile and malicious way, that Vermont's legislature believes that VTel is engaged in some misconduct. The allegations are baseless, and it is beneath the dignity of the Vermont General Assembly to make and repeat such allegations.

Equally without any factual basis are claims in the House and Senate Resolutions regarding: (1) VTel's alleged "default on a \$2 million Federal Communications Commission grant"; and (2) three unidentified towers allegedly "unbuilt" by VTel that the General Assembly urges RUS to require VTel to construct.

The alleged "default" refers to VTel's participation in the FCC's Mobility Fund Phase I Auction, which offered up to \$300 million in one-time support to carriers that commit to provide advanced mobile voice and broadband services in unserved areas. VTel was the winning bidder in the auction for 46 census tracts, winning approximately \$2 million in support. However, after VTel was identified as the winning bidder, Vermont regulators required VTel to commit to providing a more expensive technology in Vermont in a format that did not yet exist, which increased the infrastructure demands of the network deployment and the corresponding costs. Because VTel's project plan was no longer economically feasible in some of the census tracts for which it had submitted winning bids, the company proactively notified the FCC that it would have to decline FCC funds for those census tracts, and focus its build-out efforts in the remaining census tracts where financial risk was likely to be manageable and the company could economically achieve the required coverage benchmarks. Importantly, VTel notified the FCC of its default before accepting any support for the affected census tracts. For the census tracts where VTel accepted Mobility Fund support, it is working diligently to expand the reach of its 4G/LTE network.

While not clear from the resolutions, the three "unbuilt" sites in question, the resolutions appear to be referring to proposed tower sites at Peacham-01, Rochester-02, and Woodbury/Calais-01. Apparently unbeknownst to sponsors of SR-13 and HR-19, however, the communities in the areas where these sites were to be built objected to their construction. As a result, RUS gave VTel permission to remove these three sites from the network construction plan and enhance its network coverage by other means, which VTel has done.

I also am compelled to address what may be the underlying cause of VTel's current legislative problems – VTel's refusal to provide information to our state DPS about each individual Vermont household street address served by our new wireless network. VTel has a long-standing relationship with the DPS and regularly works with the agency. While we value the

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mission of the DPS and respect the skills and dedication of its employees, VTel is concerned about DPS's request for detailed wireless coverage information from VTel.

First, as far as we are aware, every experienced wireless network operator serving Vermont has refused to provide detailed coverage information. More specifically, AT&T, Verizon, T-Mobile, Sprint, and US Cellular – great companies with histories of constructive dealings with regulators – each said no. It is unclear why DPS expected a different answer from VTel or why the General Assembly should retaliate against VTel for refusing to provide information that none of its competitors has seen fit to provide.

Second, DPS has no statutory authority to require any wireless carrier, including VTel, to provide detailed network coverage information. The legal authority for the reports that DPS requires telecommunications carriers to provide is 30 V.S.A. § 22, which states, in relevant part, that a business subject to the DPS or PSB regulation shall file an annual report with the DPS “on the form prescribed by it and containing such information as may be necessary to enable the Department to determine the amount of the tax payable.” The addresses of homes served by a wireless provider's network is not “necessary” to determine the amount of the tax owed by that provider, given that the tax is based solely on gross operating revenues without regard to the location being served. While 30 V.S.A. § 202(e)(c)(1) authorizes the DPS to request the “voluntary disclosure” of deployment information from telecommunications service providers, it does not authorize DPS to compel such disclosure or contemplate that a provider will be punished legislatively for declining to make such voluntary disclosures.

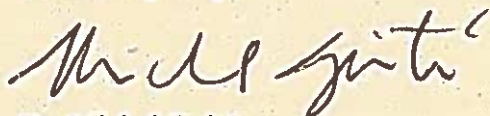
Third, the predictive software that, as far as I know all wireless carriers use to determine the reach of their wireless networks, is inherently imperfect. It can predict with very high confidence whether most of a Vermont census tract, or even a Vermont street, is served, but it cannot predict with high confidence the level or quality of broadband access at an individual Vermont address. We have explained this many, many times to DPS, and it is a well-known, unequivocal fact within the wireless industry.

VTel operates in a very competitive marketplace. It competes against well-funded and well-managed companies with considerably larger marketing budgets and broader name recognition. As a locally operated company, VTel should reasonably expect the support of – rather than

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condemnation by – the Vermont General Assembly. Unfortunately, that has not been the case with SR-13 and HR-19.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Michel Guité".

Dr. Michel Guité
Chairman

cc: Members of the Vermont Senate
Members of the Vermont House of Representatives