Good Morning Senators,

Thank you for the opportunity to speak to you regarding H.117.

I am the retired Department of Public Service Telecommunications Engineer, having held that position for over thirty years. I have testified as an expert witness in numerous Vermont Public Service Board Dockets related to telecommunications, both telephone and cable television.

I wrote the first CATV line extension formula and the Pole sharing equation. I created the method by which the CATV companies' expenses and revenues were divided between intra-state and inter-state, and between basic and enhanced services.

I also served as the E-911 Engineer, working with the first two E911 Directors, both pre- and post- independent agency status. I was a member of two E911 design committees.

I have testified in Maine, Rhode Island and Connecticut before state regulatory commissions regarding telephone company service rules and regulations.

I will speak to some of the issues which came to mind as I read H.117. These are by no means all of the issues I noted, but these are enough for me to reach the judgment that H.117, as written will not truly solve any of the real and vexing problems we continue to face today. It may well make them worse.

First: E9-1-1: The E9-1-1 Board did not do an engineering analysis of the FairPoint response the the Board's RFP for a new five year contract. The merging of the E9-1-1 system with the Public Safety Agency at the same time as the vendor is under PSB investigation, the Text to 911 feature is yet unavailable and the PSAP configuration and budget options are yet unknown, is unsound policy. The proposal also puts into question the confidentiality of the E9-1-1 data base. The E9-1-1 data base should not go to any vendor, nor to an agency that is shared with the State Police. This privacy imperative of the database was a priority from the start and continues to be very important. An Independent E9-1-1 Board could better maintain local control and privacy of the database, possibly saving $2M or more by using Vermont's GIS to display the mapping data.

Second: GRANTS are the main concept of the Connectivity Initiative. Grants should instead be offered as revolving loans. We should attempt to steer CAF II money into a revolving loan fund and consider bonds as well to achieve a rapid fiber build-out. By using payments of the loans to make new loans, the value of the monies available is multiplied many fold. Grants are spent once and are gone.

Third: ONE PLAN; The "Action Plan" should not be a separate plan but an element of a complete and current Ten Year Telecommunications Plan. This was the case with the last 2004 Plan.

Fourth: COMPETITION; State Agencies are "...to assist in making available Transportation ROWs, and other State Facilities and Infrastructures available for telecommunications projects...," These ROWs and other facilities and infrastructure should be made available on a non-discriminatory basis at fair market value pricing, preferably through PSB rate making proceedings. Otherwise a competitive market is distorted by these ' inside deals', contrary to 202c. Testimony on the 2014 Draft Plan demonstrated that the per

mile cost of fiber construction could be significantly reduced if pole make-ready work were done within the times specified in the Public Service Board Rules. Unfortunately, some of the Pole Owning utilities (POUs) do not adhere to the prescribed timelines. By obtaining make-ready monies in advance, then delaying some or all make-ready work for months, even for an entire year. The provider requesting the make-ready has to pay interest on the borrowed monies, then wait for long periods without receiving revenue from subscribers. An expedited pole attachment resolution process is still necessary.

COMPETITION and OPEN ACCESS: Both are statutory goals, but neither are fleshed out in a plan as necessary to move from buzz word to a binding strategy. Until the Vermont Ten Year Telecommunication Plan addresses these two fundamental issues in a comprehensive manner, we effectively have our policy foot on the accelerator and the brake at the same time.

Fifth: PROCESS; The public should have opportunities to contribute to the plan throughout the process. The 2004 edition of the Ten Year Telecommunications Plan was released as a of a Public Comment

Draft with hearings; then a Final Draft incorporating the public comments; and public and legislative hearings on the Final Draft. This is how the law reads now in 202d. Comments on the Final Draft might then also be incorporated into a Final Plan, or a reason provided for why not. The 2014 Public Comment Draft had one series of hearings, revised and then was proclaimed the Final Plan.

Sixth: INFRASTRUCTURE; The statutes, modified since 2011, provide a method for voluntary submission of telecommunication infrastructure and service area data, with confidentiality. This erodes transparency, precludes informed citizen participation and is in conflict with 202d, wherein "...the Department may require the submission of data by each company subject to supervision by the Public Service Board." Also, under voluntary submission and confidentiality, a provider of telecommunications data might claim there are exempt from the 202d language requirement. The voluntary submission with confidentiality is unnecessary and counter productive. The Department did no discovery of infrastructure under 202d in preparing the 2014 draft. As the taxpayers and ratepayers pay for infrastructure built in public

RoWs, the public should be permitted to obtain information about such infrastructure without difficulty or expense. This information should not be confidential unless the Public Service Board has so ruled, after an evidentiary hearing. If the public can look and see it on a utility pole in the public Right of Way, it can't reasonably be considered a trade secret.

Seventh: SPEEDS; Broadband Speeds: 4/1 and 25/3 Mbps do not begin to achieve the State's goal by 2024 of 100/100 Mbps. No Infrastructure should be designed and installed going forward to meet these low speeds of 4/1 or 25/3. Public monies should only be expended on infrastructure that meets the 100/100 Mbps goal. This has long been one of the goals of 202c already in statute, that investments not be made where it ***"results in the widespread installation of technology that becomes outmoded within a short period after installation."*** Annual cost estimates re: 4/1, 25/3 and 100/100 Mbps are unnecessary. See the costs per mile in testimony by ECFiber in the public hearings re: the 2014 Draft Plan.

Eighth: GOVERNANCE; A Telecommunications and Connectivity Advisory Board is unnecessary. Is the Department to be advised by

this board on how to write the Plan in the absence of a Plan? Or is the purpose to advise the Commissioner of who to make grants to in the absence of a plan, which grants are supposed to be consistent with the plan? The Board is to be composed of the Treasurer, an elected official, the appointed Secretaries of Commerce and Transportation, and five at-large members (all seven appointed by the Governor). Will changing governors change the thrust of the advice from the Board? With only two year terms, with a possibility of three consecutive terms, the appointees are limited to six years. Why not six year, staggered and unlimited terms, as with the Public Service Board. With the Department providing the Connectivity Advisory Board with administrative services, legal and technical resources, are not the two tied too closely to preserve the Board's independent judgement?

Ninth: CONFLICTING ROLES; The Department of Public Service is to assume possession and responsibility for all VTA assets. Doesn't this make the Department a telecommunications provider, owning telecommunications infrastructure, renting or leasing fibers or circuits to other providers, i.e. ECFiber?

Should the Department not petition the Public Service Board for a CPG? Who would then represent the public in such a proceeding? Similar questions arise for VTrans, and companies such as VELCO who own, lease and manage fiber optic networks.

Tenth: INDEPENDENT ADVOCACY;: The Department of Public Service Advocacy role is called into question by the Department advocating as a joint petitioner on behalf of Telecommunications Providers with whom they have signed contracts or Incentive Regulation Plans. This occurs in Contract Regulation under 30 VSA 226a and Incentive Regulation under 226b. In BOTH such cases, an Independent Public Advocate is needed. The statute now only requires this for 226a. Currently, a pending IRP with FairPoint may well have compromised the Department's ability or willingness to complete a real plan. This occurred in 1992. A detailed Plan would almost certainly conflict with the pending IRP. The same issue may compromise the pending Service Quality investigation as a Public Service Board finding on service quality is necessary prior to approving the Incentive Regulation Plan. There will be questions of whether a telecommunications service provider pursuing

Connectivity Initiative grants through the Department will ever be willing to challenge, question or critique the Department's draft Ten Year Plan.

Eleventh: AMOs; Access Media Organizations continue to see their revenues eroded as prior CATV subscribers utilize broadband connections instead of CATV service to receive video. This issue will not be resolved simply by the FCC's recent decision defining broadband as a Title II telecommunications service. We need to consider a more logical approach in Vermont. Make financial support for public, education and government programming (PEG) a condition of CPGs for all users of the public right of way. A share of the bandwidth of a statewide fiber backbone, commensurate with the 3-5% currently allocated for PEG, might also be used for the 'G' in PEG, saving the State millions of dollars annually.

Twelfth: USF; Why transfer the fiscal agent for the USF from the Board to the Department? What is the gain? What problem is being solved?

Thirteenth:UNIVERSAL SERVICE FUND To the four recipients of USF distribution is added "personnel and administrative costs

associated with the Connectivity Initiative for FY2016." This is a slippery slope, expanding the allocating USF funds to union and exempt employees salaries and benefits beyond the four original recipients. Even worse is the proposed amendment to take an additional $.5M from USF dollars for E911 to fill holes in the General Fund. Who else will apply for USF funds in light of this?

CONCLUSION:

I recommend that the committee not pass this bill absent resolution of the issues I have identified above, and other related issues. I support the recommendation of others that the legislative Joint Information Technology Oversight Committee be reconvened to study and resolve what they can over the summer and make recommendations to next year's General Assembly for statutory changes.

Thank you for your time and attention.

Charles F. Larkin