

From: Annette Smith <vce@vce.org>
Sent: Thursday, March 12, 2020 12:10 PM
To: Faith Brown <FBrown@leg.state.vt.us>; Ann Cummings <ACUMMINGS@leg.state.vt.us>
Subject: [External] More comments on Amended S.301/Section 248a

[External]

(Faith, will you please provide this to the committee as they take up S.301 again today. Please let the committee know I can be available by phone at the time they take up the bill, should they wish.)

Dear Senate Finance Committee,

I have listened to the audio of yesterday's discussion about S.301 and would like to share these additional comments with the committee:

Ideally, the legislature would make changes to Section 248a right now in this session based on the inconsistencies and lack of notice that I previously identified and presented to the committee in testimony. In light of the pressure right now due to coronavirus, the idea of waiting a year to get the PUC's report next session is reasonable. However, I do not think it is prudent to extend Section 248a for 5 years without making necessary changes in the next year.

I understand the committee's issue with having this sunset come back again and again. But I am not aware that Section 248a has been substantially changed since about 2012 or 2014 when substantial deference for town positions was added. Now is the time to update Section 248a. You may be aware that the opt-out on smart meters was done because VCE raised the issue in the legislature. The reason that we brought it up is because I saw trouble brewing in other states (specifically California and Maine) and I could see it would be coming to Vermont soon and the goal was to get ahead of it, which we succeeded in doing.

Trouble over the build-out of small cell antennas is not only brewing nationwide and globally, but it is already here in Vermont. Many Vermonters are bringing their concerns to us and feel helpless to do anything about the idea of small cell antennas being erected on utility poles outside their homes. While health and environmental concerns are pre-empted by the FCC, siting is not. Now is the time to provide more tools to Vermonters to address the proper siting of this new type of technology which is much closer to people's homes and potentially more impactful on aesthetics and property values.

If you adopt S.301 as discussed yesterday, these are just some of the things that will continue to happen, with no certainty that a future legislature will take action once you have put a 5 year sunset in place:

- *de minimus* applications will continue to be used for new installations without notification to adjoining or neighbors
- small cell antennas will continue to be erected on utility poles (which are also called "towers" by industry — think of them as individual cell towers) without notification to adjoining or neighbors

- helter skelter development of small cell antennas will continue, with at least three providers — AT&T, Verizon and T-Mobile/Sprint — competing for space on utility poles as each provider builds out its own individual networks
- Vermonters will become increasingly upset and frustrated that their municipality is unable to do anything to address potentially unsightly and unwanted telecommunications equipment erected in residential neighborhoods
- the PUC will be unable to address Vermonters' concerns or complaints especially over *de minimus* applications where the only role the PUC has is to determine whether or not a project meets the *de minimus* standards.
- no mechanism will exist for requiring post-construction compliance with FCC standards

VCE has provided you with a reasonable list of changes to Section 248a that could and should be adopted now. We are willing to wait until next year's report from the PUC to see changes made to Section 248a, but without a one year sunset put in place right now, it will be an uphill battle to get new legislation drafted and taken up in the next session to make any changes to the legislation. Please do not put a 5 year sunset in place, but make it one or at most two years so that there is an incentive for the next legislature to address the needs of Vermont's communities regarding the deployment of new small-cell antennas.

Thank you for considering these comments.

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