

Comments on the 2018 Telecommunications Plan
Prepared for the Senate Finance Committee
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from Irv Thomae
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I have been a Norwich resident since 1975. I have been a member of the ECFiber Governing Board since it first convened in April of 2008, and Chair since December 2012. I would like to thank members of this Committee for their help in passing the sections of Act 41 of 2015 that defined Communications Union Districts.

ECFiber welcomes the 2018 Telecomm Plan. Making full-strength broadband service available to every un- or under-served home or business within our mostly rural member towns is ECFiber's mission. Indeed, we believe that broadband connectivity is a necessary (though not sufficient) condition for the economic and educational sustainability of Vermont's rural communities. We therefore concur with most of the Plan's comments pertaining to "robust and ubiquitous" broadband deployment, and we strongly support most of its recommendations pertaining to that topic. With 685 miles of "lit" fiber-optic cable now serving more than 3200 customers in part or all of 22 member towns, I believe we have already proven that the obstacles to ubiquitous rural broadband are not insurmountable.

Rapid broadband deployment is urgently needed throughout rural Vermont. In my opinion, this Plan generally strikes a pragmatic and appropriate balance between policy and detailed recommendations. In my opinion, compiling the additional detail demanded by some critics whose testimony this Committee heard last week would consume so much time and resources – if available at all – that it could actually delay deployment by another year or two.

From our experience as Vermont's first Communications Union District, ECFiber is particularly pleased to see that "pole attachment reform" is the first in the Plan's numbered list of recommendations (on p. xviii), followed by joint State and municipal planning for broadband expansion as #2.

I would gently suggest that the Broadband Action Plan summarized on pages 11*ff* may be too cautious in some respects. ECFiber began and evolved as a coordinated grassroots effort in multiple towns, municipally owned but privately funded. We were therefore well situated to benefit from VTA and DPS help, partly through location-specific grants but especially through dark-fiber infrastructure. Collaboration between local activist investors, municipalities, and the State helped the enterprise and its revenues grow big enough to attract institutional investors just as our CUD reorganization took effect in 2016. ECFiber's rapid growth since then proves, I believe, that widespread broadband deployment need not be constrained by the limited resources available directly from state funds alone. The broadband loan proposal detailed last week by DPS and ACCD officials recognizes and attempts to facilitate that possibility.

My remaining comments will focus on the more detailed discussion and recommendations of Part III, “Regulatory and Policy Considerations”, especially pages 47 through 52.

Pole attachment rental rates:

We strongly support the Department's position that all attaching entities should be charged a uniform rate, chosen to be revenue-neutral for the pole owners.

Make-ready Reform

As the text explains, the current system's lack of accountability can impose extensive and costly delays on any entity attempting to deploy new broadband infrastructure. As an example of why the reforms outlined in the Plan are needed, ECFiber's 2017 construction in six towns required at least some make-ready work on about 23% of the 6400 poles required. Despite the PUC rule requiring work to be done within 120 days after pre-payment, 58% of all pole licenses were at least 50 days late relative to the required 120 days, and an astonishing 14% were overdue by 240 days or more. In effect, ECFiber used some of its borrowed capital to extend an interest-free loan to the pole owners for the dubious privilege of waiting 12 to 13 months, instead of a planned 4 months, before we could string our fiber-optic cables and connect several hundred long-suffering residents, chiefly in the towns of Strafford, Thetford, and West Windsor.

The Plan's simple suggestion that the applicant be empowered to have late make-ready work completed by a third party contractor – presumably at the pole-owner's expense – would be extremely helpful, and we strongly support it.

The Department has already demonstrated its commitment to such a change by petitioning the Public Utility Commission to open a “rule-making procedure:” for comprehensive review and revision of its current makeready regulations.

In addition, because the most egregious delays have involved poles that are jointly owned (typically by an electric utility and a telephone company), the 120-day window for make-ready completion should be applied to co-owners jointly, not sequentially. That would presumably incentivize prompt action on tasks such as pole replacement that must be completed before a co-owner can do its work.

Greater transparency in the process would also help to protect all parties' interests: for example, there would be fewer disputes if pole owners routinely documented for make-ready payors the dates on which pre-payments were received, the dates when any necessary AOT or railroad permits were applied for and received, and the schedule for any needed pole replacements.

Incidentally, I should also note that apparently due to a miscommunication, one of last week's witnesses greatly overstated the role of “surveying and inventorying existing pole information” in total makeready costs, and the savings that might therefore be realized by state-wide GIS mapping of all poles. In our typical \$30,000/mile construction cost, makeready averages slightly under \$4,000. Pole-mapping, which is needed for detailed network design, not makeready, runs about \$500/mile.

Communication Union Districts

It will surprise noone that ECFiber vigorously applauds the Plan's suggestion that the Public

Records Act should explicitly exempt CUD's from disclosure of "competitively sensitive material." The need for such a provision has been highlighted by the very recent court decision requiring the DPS to withhold from public view all such information reported to it by commercial telecommunications providers.

On the other hand, we believe that the Plan's second regulatory suggestion to assist CUD's by "amending the current prohibition on municipalities pledging tax dollars to fund telecommunications plant" is a bad idea for several reasons.

Historically, the existence of that prohibition was one of the factors that caused the residents of roughly two dozen towns having very different demographics to band together and form ECFiber, years before the CUD statute existed. Without that limitation, I suspect that a very few towns – quite likely including my own - would long since have fully met their own residents' connectivity needs, leaving their neighbors in metaphorical darkness. As a regional body with unified financing and revenue streams, however, a CUD in effect averages together variations in both population density and disposable income, so that a network can be built cost-effectively even in the most rural parts of its territory. That is what we mean by the expression "economies of scale" - together with the fact that network design, construction, and operation can all be more efficient when planned from the outset to cover a much wider territory than any single town.

Under existing law, neither a CUD itself nor any of its members can use general-obligation debt to finance either construction or operations. Despite my firm belief in the importance of broadband access for economic development, I also think it must be recognized that not all residents will benefit directly from it. I oppose such a change because general-obligation debt is repaid from property taxes, which in turn are unrelated either to the individual's ability to pay or to that individual's desire to make use of a broadband connection. Pragmatically speaking too, if a CUD could be even partially financed from local taxes, it would be extremely difficult to win voter approval for proposals to join one. ECFiber's very strong public support derives in equal measure, I think, as much from the fact that it is paid for from user fees as from our high quality of service by local people. ECFiber has achieved stable and positive cash flow, and is now growing rapidly. The fact that this has been achieved despite getting started in the teeth of the Great Recession suggests that success is possible without general-obligation bonding.

Clearly, however, startup funding is an enormous challenge for any new CUD, not only to support initial planning, design, and construction, but to subsidize operations until it achieves positive cash flow and can credibly seek larger-scale financing through revenue bonds as ECFiber has done. For that reason, we enthusiastically support the Administrations's Broadband Expansion Loan Program. By funding up to 90% of project costs and requiring neither principal nor interest payments in the first two years, we believe such loans would make it possible for CUD's and other community broadband projects to get through the startup construction phase, as we did, and begin earning revenue from customers. For the other 10%, we suggest that policy makers consider whether additional incentives are needed to encourage local private investment in CUD's at their earliest stages of development. As ECFiber's history

shows, early-stage loans have a tremendous leverage effect (potentially exceeding 6::1) when the CUD qualifies for borrowing in the municipal bond markets, bringing far greater resources into Vermont than the initial investment from state and private funds.

We also support the Plan's and the Administrations's recommendation concerning state grants which CUD's could use to fund their initial planning process. Indeed, because of their potential leverage impact, planning grants to CUD's would be a more cost-effective use of limited Connectivity Fund money than grants to either individual municipalities or service providers as outlined in the Broadband Action Plan.

Just to be very clear, ECFiber is well past the startup phase, and would not be an applicant for any such funding. However, we believe that the CUD structure can be very effective in widespread broadband deployment across rural Vermont, and we stand ready to share our experience with others.