

Senate Finance Committee  
Senator Cummings Chair  
Vermont Senate  
Montpelier, VT

April 30, 2021

Dear Senator Cummings and Committee Members,

Thank you for hearing a portion of my in person testimony at 3:50 last Friday. Unfortunately I was unable to provide many important details as planned so as you requested, I am taking the time to write my remarks here as well as some very important bullet points for the committee's consideration.

As the sole proprietor of Duncan Cable TV since 1972, I'm very proud of our 49 year service record as a service provider in good standing, with the VT Public Utility Commission and the Vermont Dept. of Public Service. We serve approximately 1,500 Cable TV customers, 2,600 Broadband Cable Modem customers and 600 Fiber served Broadband customers so far.

Key Points worth mentioning,

We have already constructed and now have operational our FTTH distribution network to over 60 miles of the 95 miles of main roads in our service territory. For the most part, what remains to be built are some of the most rural areas of Wilmington and Dover, VT.

The best and most prudent use of grant money the committee is now considering how best to distribute, should be to prioritize areas where a provider like DCTV has already demonstrated it's desire to build out such remaining unserved areas. The notion that CUDs should be allowed to "overbuild" areas where existing providers have already constructed a FTTH network is misguided and a waste of taxpayer funding.

Is the intent here to successfully bridge the gap to reach the remaining otherwise economically unreachable areas in Vermont? OR, Is the intent to create a statewide, taxpayer funded network in direct competition with all private telecommunications providers throughout Vermont?

The legislative intent of the reconciliation of the House bill with the Senate's bill must be to fund only those remaining unserved and most economically challenging areas of our state.

## **Funding the final push to buildout FTTH in Vermont.**

1. Reward those Vermont companies who have already demonstrated their willingness to invest their own capital to build FTTH in their service areas by assuring them equal access to all future grant opportunities.

### **2. Do not enlist the CUD's to distribute FTTH buildout grants.**

a. In DVCUD's case, it's own business plan confirms that it cannot be impartial if offered control over future grant applications and or distribution of grant money.

#### **Examples quoted from their plan of such impartiality are:**

Page 15; “ The DVCUD could be negatively impacted if the State provided significant additional money to competitive cable services and funded expansions”

Page 15; “ The DVCUD is the *only* entity in the region who has committed to providing universal 100/100 service (or better) to all premises in their footprint” **This is simply not true!**

Page 18; “ dense clusters of potential business customers, the high density of second homes and wealthier residents in the area make these areas candidates for intentional overbuilding-even in phase II”

Page 26; “The financial model assumes DVCUD builds out the entirety of the current 15 members town”

*After seeing these specific examples of conflict of interest, does the committee truly believe that empowering the DVCUD, for example, to approve competitive grant applications, best assures the most impartial and prudent use of taxpayer funding to finally build out the remaining un and underserved areas of Wilmington and Dover????*

3. All CUD's must be required to compete for any funding opportunities with existing FTTH providers like Duncan Cable TV through an application process which is merit based. This should be administered by an agency like the VDPS who best knows, from day to day experience, important considerations such as:

- Existing experience in the town where the app is being made,
- Experience and customer service record with the VDPS,
- Financial worthiness as demonstrated over many years of service,
- Other previous commitments in the town as it may relate to a company's deserving nature. Among others.

## **Determining which Telecommunication providers should pay Vermont personal property taxes**

1. The unfair and regressive nature of Vermont's current approach to property taxation of Telecommunications provider's personal property has been repeatedly noted in our state's "Telecommunications Plan".

2. Extending exemptions to CUD's on the basis they're being a municipality will no doubt end up being litigated. CUDs have sought and been granted the right to offer service across town lines as an entity and seeks to function in a way unlike any traditional municipality. A CUD is a regional municipality, not a town entity in a traditional sense.

3. Duncan Cable TV has paid property taxes on it's personal property for 49 years. Conversely, Telco's personal property has been exempt from paying personal property since the 1930's from my research.

For example, a 4 million dollar investment in DCTV's FTTH network results in approximately a \$108,000/yr property tax bill. A 4 million dollar investment in a telco's FTTH network results in a \$ 00 property tax bill. It's worth mentioning that Telco's and other property tax exempt entities are not bogged down every spring filing Vt Property valuation forms and related, calculated information to state and local lister boards. Nor are they bogged down each year when appealing grand list values is necessary.

4. CUD's and their potential partners are seeking to offer Telecommunications services in direct competition to existing Vt. Telecommunications providers who have never enjoyed such property tax exemption status. Extending property tax exemptions to CUD's and their partners would only serve to tilt the already unfair playing field in favor of some new providers over other legacy providers without real justification for doing so.

5. This subject deserves a wholesale review and thorough consideration for appropriate change. The committee does not now have the luxury of time this topic deserves and therefore should not be included in this bill but rather debated and addressed in the next legislative session.

**Tax payer funded CUD's should not be allowed to enter into any form of NDA's (non-disclosure agreement) as it relates to any financial arrangement between the CUD and the private entity with whom it partners.**

**Taxpayer funded CUD's should be prohibited from any NDA's which:**

1. Are contrived to conceal or otherwise somehow cloak any financial arrangements between the CUD and it's partner(s).

**A. Tax payers are entitled to have full knowledge of all financial arrangements such as;**

1. All monies including sources of funds used to create and or maintain the CUD's network through it's public private partnership.
2. All arrangements of any kind which are in any way to the financial benefit of the CUD, the entity with whom it partners, all subsidiaries and or institutions involved either directly or indirectly with the creation or maintenance of it's network. This should also include any (sweetheart) arrangements such as pole make-ready costs or pole rental fees, or any other arrangements either monetary in nature or a gesture in kind where some form of transactional value has been determined to exist between the two entities or their subsidiaries.
3. All arrangements between the CUD and the town's where it has infrastructure.
4. All arrangements related to the acquisition and purchase of wholesale bandwidth used by the CUD and or it's partners either through direct purchases or any form of indirect bandwidth acquisition via any “deal” where one entity or the other is either directly or indirectly compensated for the value of it's bandwidth use or provisioning costs.

**Some final thoughts as they relate to Duncan Cable TV's worthiness should it apply for future Broadband grant, funding opportunities.**

1. DVCUD is proposing to construct a network where the design will be splitting primary fibers 1x32 with a few extra primary fibers for “enterprise” opportunities. Unlike DVCUD, DCTV is building its' network where it can split primary fibers 1x16 (half the sharing of DVCUD network design) while also including extra primary and 25% sub growth capacity to meet future enterprise as well as residential growth over time. Simply put, a superior level of throughput capacity is built into DCTV's already and yet to be constructed FTTH network.
2. Our network is wide open. For example consumers can choose from a list of VOIP telephone providers all of whom are compatible w DCTV's FTTH network. More phone choices!
3. As a traditional Cable TV provider, our FTTH network includes our core video services offering a choice to those consumers. DVCUD offers no traditional Video services.

4. DCTV offers ground zero,, public, educational and educational access opportunities unlike any other existing or proposed provider in the towns it serves.

5. Duncan Cable was not allowed to participate in the RDOF application opportunity because we do not offer a branded telephony service. We therefore do not have direct access to this funding opportunity.

In closing, I would be happy to discuss any of the above concerns with the committee if you wish.

Respectfully,

Cliff Duncan

***DUNCAN CABLE TV***