

**Before the
VERMONT PUBLIC UTILITY COMMISSION**

Petition of Vermont Department of Public)	
Service for rulemaking to amend Public)	Case No. 19-0252-RULE
Utility Commission Rule 3.708)	
)	

REPLY COMMENTS OF CTIA

CTIA respectfully submits its reply comments in response to Attorney Howe’s Memorandum requesting reply comments issued on June 27, 2019 in the above-captioned docket (“Memorandum”).

I. INTRODUCTION

As CTIA has previously indicated in this docket, including through submission of a redline of the Department of Public Services’ (“DPS’s”) proposed rule changes,¹ CTIA encourages the Vermont Public Utilities Commission (“Commission”) to amend its rules. The wireless industry is presently engaged in deploying advanced 4G and 5G networks to benefit Vermonters, so it is important for the Commission to take steps to facilitate infrastructure deployment. Small cells are being deployed across the nation today, and access to infrastructure, such as utility poles, is essential to such deployments. Wireless carriers’ overall site deployments increased by 25,000 in 2018,² and S&P Global Market Intelligence projects that small cell deployments will escalate rapidly to over 800,000 nationwide by 2026.³ Accenture

¹ See Comments of CTIA, at Appendix A, Case No. 19-0252-RULE (March 8, 2019).

² See CTIA.org, “2019 Annual Survey Highlights” (June 20, 2019), available at https://api.ctia.org/wp-content/uploads/2019/06/Background_on_CTIA_Wireless_Industry_Survey_2019.pdf (“Background on CTIA’s Wireless Industry Survey”) (last accessed July 12, 2019).

³ See *Id.* (The 800,000 small cells deployed by 2026 figure is drawn from S&P Global Market Intelligence’s SNL Kagan unit’s Wireless Intelligence service. Specifically, data accompanying an article by John Fletcher, “Tower, small cell projections through 2028,” Oct. 24, 2018); Margaret McCarthy and Rebecca Murphy Thompson, *Unleashing the future of mobile broadband (Reality Check)*, RCR Wireless, <https://www.rcrwireless.com/20180306/opinion/reality-check/unleashing-future-mobile-broadband-reality-check-Tag10>, (citing data from S&P Global Market Intelligence) (last accessed July 12, 2019).

projects that this investment will lead to \$500 billion in national GDP growth, three million jobs created, and over \$275 billion invested in 5G wireless infrastructure nationwide.⁴ Wireless providers' capital expenditures in 2018 totaled \$27.4 billion, and total over \$253 billion since 2010.⁵ The Commission can encourage these investments to be made and technologies to be deployed in Vermont by amending its rules to ensure infrastructure deployment in Vermont can proceed efficiently and expeditiously.

II. DISCUSSION

A. The Commission's Rules Should Mirror the FCC's.

The Memorandum inquires whether make-ready estimates should be itemized as required under FCC rule 47 C.F.R. § 1.1411(d). CTIA asserts that they should. Uniform rules across the states are helpful in promoting deployment. Currently the FCC's rules govern pole attachments in 30 states, and in many other states that have reverse preempted, the rules closely follow the FCC's. Following the FCC's rules is a prudent approach generally. The FCC rule highlighted in the Memorandum increases transparency by providing detailed information and certainty to the benefit of both attachers and pole owners. Itemization of make-ready estimates, as is required under the FCC's rules, is good policy and should be implemented in Vermont.

Similarly, the Commission should reject any suggestion to implement a separate timeline for complex make-ready work involving pole replacements. The FCC's rules include pole replacement in the definition of complex make-ready and allocate more time for complex make-ready than for simple make-ready. DPS's proposed rule follows the FCC approach and allocates 90 days for complex make-ready, which is 60 days more than that allocated for simple make-

⁴ See *accenturestrategy*, "Impact of Federal Regulatory Review on Small Cell Deployment" (March 12, 2018) at 3, available at https://api.ctia.org/docs/default-source/default-document-library/small-cell-deployment-regulatory-review-costs_3-12-2018.pdf (last accessed July 12, 2019).

⁵ See CTIA Annual Survey for 2019.

ready. DPS's proposal to allocate 90 days for complex make-ready is sufficient for complex make-ready involving pole replacement. Creating a separate timeline for make-ready involving pole replacement would be inconsistent with the FCC's approach and such unnecessary misalignment should be avoided.

B. The Wireless Industry Does not Object to Certain Minimum Application and Labelling Standards Designed to Promote Safety and Efficiency in Deployment and Maintenance.

The Memorandum poses several questions regarding application procedures and labelling requirements. The wireless industry, pole owners, and the Commission share a common interest in ensuring safe and efficient attachment to poles throughout the State. CTIA recognizes that certain practices can promote that goal. Regarding labelling of wireless equipment, CTIA suggests that the Commission rely on existing policies and standards arising under the FCC's rules and policies, as well as standards for wireless attachments delineated by the Institute for Electrical and Electronics Engineers. The wireless industry's current practice generally is to affix labels identifying the attachment owner and its contact information, which has proven effective.

C. The Wireless Industry Supports use of Effective Notification Tools.

The Memorandum also asks about mandating the use of the National Joint Utilities Notification System ("NJUNS"). CTIA takes no position on using NJUNS specifically, but CTIA's members acknowledge that it can be an effective tool. That said, CTIA suggests that the Commission should avoid naming any particular notification technology for use in Vermont, as any subsequent change in technology would require a rule change. The better approach is for the Commission to provide guidance on factors that must be satisfied by any notification tool employed by utilities in order for the Commission to meet its goals.

III. CONCLUSION

CTIA looks forward to continuing to work with the Commission to promote wireless deployment in Vermont. The Commission should therefore promptly adopt DPS's proposed rule changes, as informed by CTIA's current and prior comments submitted in the instant docket.

Respectfully submitted,

By: /s/ Phillip S. Bixby

Phillip S. Bixby, Esq.
Vermont Bar No. 3423
Geoffrey G. Why
Verrill Dana, LLP
One Portland Square
Portland, ME 04101-4054
(207) 253-4518
pbixby@verrilldana.com

Benjamin J. Aron
Matthew DeTura
CTIA
1400 16th Street NW
Suite 600
Washington, D.C. 20036
(202) 736-3683

July 17, 2019