

Before the
VERMONT PUBLIC UTILITY COMMISSION

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

COMMENTS OF CTIA REGARDING
REPRESENTATIVE BRIGLIN’S LETTER

I. Introduction

On September 30, 2019, the Chairman of the Energy and Technology Committee of the Vermont House of Representatives, Representative Tim Briglin, wrote to the Vermont Public Utilities Commission (“Commission”) to express his concerns regarding whether the Commission’s proposed revisions to PUC Rule 3.700 (Pole Attachments) appropriately reflect the letter and spirit of the recent legislation the Commission is implementing (“Briglin Letter”). CTIA submits these comments renewing its suggestion that the Commission closely align Vermont’s pole attachment rules with the Federal Communications Commission’s (“FCC’s”). Such an approach will solve several of the issues identified by Representative Briglin and promote broadband deployment in Vermont.

II. Discussion

CTIA previously recommended to the Commission that it seek to adhere to the FCC’s rules, or as closely thereto as is practicable, when the Commission revises its pole attachment rules. That recommendation is well-aligned with several suggestions made by Representative Briglin. Accordingly, and as explained herein, CTIA renews its request for the Commission to closely align its pole attachment rules with the FCC’s. CTIA recognizes that Act No. 79 (2019)

(“An act relating to broadband deployment throughout Vermont”) may, in certain instances, require rule changes that are not perfectly aligned with the FCC’s rules. However, in instances where alignment is not at cross-purposes with Act 79, CTIA renews its suggestion that aligning Vermont’s pole attachment rules with the FCC’s will best promote broadband deployment in Vermont.

Representative Briglin urges the Commission to clarify its proposed rules regarding self-help for attachments in the electric space and one-touch make-ready work. He also urges the Commission to expedite pole replacement work and implement rapid dispute resolution procedures. CTIA agrees with these suggestions.

The FCC’s pole attachment rules make clear that self-help remedies are available to remedy missed timelines for surveys and make-ready for complex make-ready work, which includes work above the communications space.¹ Proposed Rule 3.708(L)(6) is at odds with the FCC’s approach. Adopting the FCC’s rules, or rules that track those rules as closely as is practicable, will enable self-help remedies for survey and make-ready for complex make-ready projects. Implementing self-help for survey and make-ready for complex make-ready projects will facilitate broadband deployment, furthering Vermont’s broadband deployment goals.

CTIA supports Representative Briglin’s suggestion that the Commission revise its rules to ensure that when pole replacement is required for certain poles within a larger application, the entirety of the application is not delayed by the need to replace poles. CTIA agrees that the Commission’s rules should support completion of as much of a project as can be completed while other elements of the same project may require additional time.

¹ See 47 C.F.R. §§ 1.411-12.

Representative Briglin also urges the Commission to implement expedited dispute resolution and CTIA agrees. CTIA does not have a recommendation regarding the appropriate model for the Commission to adopt, but the accelerated or expedited dispute resolution processes in neighboring and nearby states are examples of processes in use today.² CTIA does not have a recommendation regarding the appropriate model for the Commission to adopt, but it does recognize the value of expedited dispute resolution and urges the Commission to implement it in some form.

The Commission's proposed modifications to PUC Rule 3.700 reflect an improvement over former rules and largely track the FCC's pole attachment rules. Certain additional modifications can be made that are important to improving the pole attachment process with the ultimate goal of promoting and facilitating broadband deployment in Vermont. Wireless carriers must have self-help remedies, and lists of approved contractors to implement such remedies, for a pole owner's failure to timely complete survey and make-ready tasks for complex make-ready projects, whether within, above, or below the electric space. The FCC's rules contain such remedies, and the Commission will promote and facilitate broadband deployment in Vermont by mirroring the FCC's rules. Other improvements to the rules, such as expedited dispute resolution and preventing pole replacement from slowing entire projects, should also be adopted.

III. Conclusion

CTIA appreciates the Commission's efforts to promote wireless deployment in Vermont and looks forward to continuing to work with the Commission to achieve that goal. The

² See, e.g., Order, *Investigation into Practices and Acts Regarding Access to Utility Poles*, State of Maine Public Utilities Commission, Docket No. 2010-371 (Order entered July 12, 2011) (rapid resolution of complaints via "Rapid Response Team"); Order Adopting Policy Statement on Pole Attachments, *Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues*, Case 03-M-0432, at Appendix A (Issued August 6, 2004).

Commission will promote that goal by amending its proposed rules as described above and in CTIA's earlier comments in this docket.

Respectfully submitted,

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