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September 30, 2014

Chris Recchia, Commissioner
Department of Public Service
112 State Street, Third Floor
Montpelier VT 05620-2601

Dear Commissioner Recchia:

I am writing on behalf of the 246 member cities and towns of the Vermont League of Cities and Towns (VLCT) to comment on the public comment draft Vermont Telecommunications Plan, particularly its broadband and mobile coverage aspects. We believe in an ambitious telecommunications goal for Vermont. The draft public comment plan’s goals are currently not ambitious, and do not begin to meet existing demand for services that are both high-speed and low cost. The Department of Public Service and the Public Service Board (PSB) should aspire to provide state-of-the-art broadband Internet access and mobile telecommunications services statewide in concert with the municipalities who can supply those services and that will host the infrastructure that provides them.

It is not at all true, as the public comment draft plan states in its first sentence, that the “telecommunications market in Vermont is a competitive environment in which consumers have choice between many service providers and platforms to meet their telecommunications needs.” In many parts of Vermont, there is no competition, service is slow or non-existent, and the sole provider has little incentive to improve the situation.

The plan establishes a goal of “strengthening universal availability and affordability of telecommunications services, supporting availability of modern mobile services, providing benefits of future advancements in technology to Vermont residents, and supporting competitive choice for consumers.” That goal should instead be to *provide* infrastructure that ensures universal adoption and use of high-speed broadband service because that service is vital to (1) the future economic viability of the state, (2) students preparing for careers in the 21st century, and (3) providing access to health care and every other service that Vermonters need. As the plan states, the Internet has become essential to participating in the modern economy. Yet in this state, many Vermonters do not have access that is adequate to conducting business.

Municipalities should be full partners in achieving these goals. Our citizens need these services today to conduct most aspects of their lives and businesses. Several issues should be considered:

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- VLCT Property and Casualty Intermunicipal Fund, Inc.
- VLCT Unemployment Insurance Trust, Inc.

There are legitimate issues surrounding both providing and locating the infrastructure. Municipal plans, which are the most ubiquitous land use plans in the state, address these issues more frequently and in more detail than in the past. They reflect the priorities of the citizens in those communities. According to the draft plan, Section 248a has been very successful since its implementation in 2012 and that the PSB has approved 216 applications. In fact, the PSB approved 100 percent of

application submitted between 2012 and 2014, a clear indication that no critical review was applied to them.

Municipal determinations and plans must be given substantial deference in the process of permitting telecommunications facilities. This summer, we urged the Public Service Board to define “substantial deference” to mean that the conservation measures and standards contained within the municipal comprehensive plan and bylaws, and recommendations of the municipal legislative body, or municipal or regional planning commission shall be applied unless there is a clear and convincing demonstration that those measures, standards and recommendations are contrary to law and that factors affecting the public good of the State of Vermont significantly outweigh application of the municipal legislative body or municipal or regional planning commission recommendations, standards, or conservation measures. Your department argued that substantial deference means the measures in the local and regional plans and the recommendations of the local and regional bodies based on those plans are “presumed correct, valid, and reasonable” unless shown otherwise.

The Public Service Board did not agree with either proposed definition. We believe this is a significant issue that the telecommunications plan needs to highlight, that it should support at least your department’s recommendation, and the Public Service Board needs to incorporate that definition in its rules.

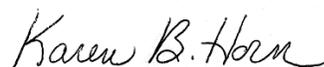
Municipalities should be partners in ensuring a competitive marketplace, as that will help rural Vermonters compete on a more level playing field. It is nothing short of appalling that Goal Number 7 states “Vermont policy makers should carefully consider the negative outcomes of state and municipalities directly competing with private firms in the provision of telecommunications services, especially in areas where consumers are adequately served.” What is “adequately served?” Who makes that determination? What if there is only one provider in an area and municipally-based providers would substantially increase the availability of high-speed, state-of-the art broadband service that is not being provided today? How is it that the Vermont Telecommunications Authority, a governmental entity, is a legitimate provider of service and infrastructure but municipal governmental entities are not?

The plan discusses grant programs. State government has many examples of revolving loan funds that provide money for projects at low or even no-interest rates, which are repaid through user rates over time and then funneled into second generations of loans. Certainly, revolving loan funds stretch dollars so that more projects may be funded than if only a grant program were to be funded.

We urge you to rewrite the very modest goals proposed in the public comment draft plan to drive high-speed and high-capacity provision of services statewide in both rural and urban environments to meet Vermonters’ demands. They should also be able to use all available resources, including municipal projects in areas where that will provide a level of service unattainable by the private competitive market.

Thank you for the providing the opportunity to comment on the draft plan.

Sincerely,



Karen Horn, Director
Public Policy and Advocacy