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HOUSE OF REPRESENTATIVES

HOUSE CONSUMER AFFAIRS COMMITTEE

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ROOM 60, EAST WING

THURSDAY, MARCH 29, 2012
9:30 A.M.

HEARING ON
HOUSE BILL 2061 (GODSHALL)

BEFORE:
HONORABLE ROBERT GODSHALL, MAJORITY CHAIRMAN
HONORABLE FRANK BURNS
HONORABLE SHERYL M. DELOZIER
HONORABLE BRIAN ELLIS
HONORABLE JOHN R. EVANS
HONORABLE JULIE HARHART
HONORABLE NICK KOTIK
HONORABLE ROBERT MATZIE
HONORABLE CARL W. METZGAR
HONORABLE SCOTT PERRY
HONORABLE TINA PICKETT

ALSO PRESENT:

JANE HUGENDUBLER
MAJORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT

LISA KUBEIKA
MINORITY LEGISLATIVE ASSISTANT

AMANDA RUMSEY
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MINORITY EXECUTIVE DIRECTOR

TIMOTHY SCOTT
MINORITY RESEARCH ANALYST

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EDWARD C. TROXELL, DIRECTOR OF GOVERNMENT AFFAIRS
PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES

CHAIRMAN GODSHALL: Good morning. It's now 9:30 a.m., and I'd like to call this meeting to order. It's a public hearing on House Bill 2061, and the hearing is being recorded. I'd like to first start with the Members introducing themselves, starting with Frank Burns.

REPRESENTATIVE BURNS: Representative Frank Burns, Cambria County.

REPRESENTATIVE MATZIE: Representative Rob Matzie, parts of Beaver and Allegheny County.

REPRESENTATIVE KOTIK: Representative Nick Kotik, Allegheny County.

REPRESENTATIVE METZGAR: Representative Metzgar, Somerset and Bedford.

REPRESENTATIVE ELLIS: Representative Bryan Ellis, Butler County.

REPRESENTATIVE DELOZIER: Representative Sheryl Delozier, Cumberland County.

CHAIRMAN GODSHALL: Thank you very much, and what House Bill 2061 does, it streamlines the process used by municipalities to consider applications for collection of modification of existing wireless telecommunications infrastructure, specifically cell towers. More and more Pennsylvania consumers use only wireless devices to make calls, send e-mail and text messages, use the internet, and even watch TV and movies. Keeping pace with consumer demand requires significant upgrades to wireless infrastructure throughout the Commonwealth. This bill will facilitate the continued expansion of wireless services and enhance service quality by providing a uniform application process for carriers seeking to place additional infrastructure on existing wireless towers. I look forward to hearing from today's – each of today's speakers. I'm certain their testimony will be informative, and there will be questions following each speaker. So with that, I'd like to get started. And first presenter would be Jackie McCarthy, Director of State Regulatory Affairs for CTIA, The Wireless Association. You're going to also have to tell me what CTIA means because I don't know.

MS. McCARTHY: Good morning, Mr. Chairman and committee. CTIA actually stands for The Cellular Telephone Industry Association, but now that we're much more than telephones, we're smart phones and all kinds of wireless devices, our official name now is CTIA The Wireless Association, and thank you to, to you and to, to all the members of the committee for, for having me.

CHAIRMAN GODSHALL: Speak right into that microphone for me, please.

MS. McCARTHY: Okay. Is that better? Okay, great. So CTIA is the international trade association representing wireless carriers, device manufacturers, and internet service providers. I'm here today to speak in support of House Bill 2061, which would promote mobile broadband deployment by expediting and clarifying the local review process for improvements to existing cell towers and other wireless facilities.

And just to kind of set the, set the framework for the, for the industry nationwide, demand for wireless broadband is growing exponentially as new applications, devices, and technologies consume more bandwidth and attract more subscribers. Wireless providers continue to invest in, build out, and upgrade networks to compete on network quality. By mid-year 2011, U.S. wireless carriers' cumulative capital expenditures totaled more than 322 billion dollars, an increase of more than 27 billion dollars over the preceding 12-month period, despite a challenging economic climate. From energy usage to telecommuting to educational and government access, wireless broadband promises to increase efficiency, connectivity, and information sharing. The economic and societal benefits brought about by wireless broadband requires a robust infrastructure backbone, which in turn requires the ability to deploy wireless facilities where they're needed.

On the emergency communication side, we know that wireless communications is a key component of our nation's 9-1-1 emergency response system. CTIA estimates that there are almost 300,000 wireless 9-1-1 calls in this country every single day. Emergency communications networks are updating public safety systems to next generation 9-1-1 technologies that will allow for new services and devices to complete calls to our nation's 9-1-1 call centers while providing accurate location information to assist first responders. And like all broadband-based technologies, next generation 9-1-1 also requires comprehensive infrastructure development.

Recent Federal recognition of the importance of wireless infrastructure bears consideration by this committee. In its National Broadband Plan, the Federal Communications Commission (FCC) acknowledges that wireless infrastructure is critical for broadband deployment. The FCC's National Broadband Plan states that wireless networks rely on site deployment and that securing rights to infrastructure deployment is often a difficult and time consuming process that discourages private investment. To expedite this process, the FCC established in 2009 a shot clock requiring local governments to make decisions on proposed wireless facilities on existing structures within 90 days and on new tower proposals within 150 days of receipt of a completed application. FCC Chairman Julius Genachowski recently pointed to the red tape and delays entailed in the wireless siting process and observed that expediting that process could unleash 11.5 billion dollars in new broadband infrastructure investment in 2011 and [20]12. And most recently, earlier this year, Congress acknowledged the critical role of timely wireless facilities deployment by requiring streamlined local government approval for such facilities on existing structures.

House Bill 2061 is consistent with these national priorities. By reforming local regulation restrictions of wireless facilities on existing structures, House Bill 2061 will streamline approval processes at the municipal level while still allowing for local control of conformance with relevant building and zoning code provisions. House Bill 2061 also clarifies Federal preemption of local government consideration of radio frequency issues and of local regulations that prohibit or have the effect of prohibiting wireless service. The Federal government's exclusive jurisdiction over radio communications is predicated on a finding that national regulation is not only appropriate but essential to the operation of a seamless, nationwide communications network. Finally, House Bill 2061 provides a shot clock for local review of proposed wireless facilities. Similar to the Federal shot clock, this provision imparts certainty to both local governments and wireless service providers. We respectfully submit that, given consumer demand for and recognition of wireless service as critical 21st Century infrastructure, House Bill 2061 furthers a compelling public purpose.

As wireless providers deploy 4G high-speed mobile broadband services to address exploding consumer demand, they need the option to consider siting wireless facilities on existing structures wherever possible. These facilities are increasingly critical to network performance as users demand high-speed services both in the home and on the go. By streamlining approval processes for these facilities across Pennsylvania, House Bill 2061 would significantly enable the deployment of mobile broadband. Thank you very much for the opportunity to testify in support of this bill, and I'm happy to answer any questions.

CHAIRMAN GODSHALL: Thank you. Are there any questions from any of the Members? I'd like to also acknowledge John Evans at this point from the Erie area has joined us. And – oh, and Tina Pickett, Tina, I'm sorry I didn't see you over there. Wasn't looking that

far over, okay, and from up in Bradford County area. I would like to recognize Representative Ellis.

REPRESENTATIVE ELLIS: Thank you very much, Mr. Chairman, and thank you for coming to testify today. In your testimony you comment on the fact that the process of getting it permitted takes a lot of time and costs a lot of money to the industry and, and hurts deployment. You mentioned the ninety days that's in the bill. How important is it also to have the thirty-day provision where a municipality has to let the provider know what additional information they have? I mean, are we seeing right now – are they sitting on that part of the application process and then whenever you press the issue they say, “Oh, well, you still need to give us this?”

MS. McCARTHY: That's a great question, and yes, I think that element of House Bill 2061 is also important in imparting certainty in the application process for both the applicant, the provider that's, that's planning a facility, and for the local government to make clear what deficiencies they see in an application, and, you know, what information they need additionally in order to make a final decision.

REPRESENTATIVE ELLIS: Now, are, are other states using the thirty-day model? Because I, I would imagine for some municipalities to – they're not – they don't have the wherewithal, necessarily, to make a decision quickly. They don't have, you know, they don't have a budget. They don't have people that they can go to to really analyze it as well it needs to. Is that a model that's being used across the country, or in your estimation should it be?

MS. McCARTHY: Yeah, and I think maybe some of the other speakers can, can speak more specifically to other siting bills in states, but I have seen in either municipal codes or in some states' siting legislation across the country that there are time limits on review of applications and of communicating with the applicant what the additional information that's

needed. And like I said, I think, in terms of expediting not only a final decision but also the timely review of these applications, that kind of time, that kind of time frame or shot clock, if you will, is, is an important element of this bill.

REPRESENTATIVE ELLIS: Okay, thank you very much.

CHAIRMAN GODSHALL: Representative Matzie.

REPRESENTATIVE MATZIE: Thank you, Mr. Chairman. Thank you, Ms. McCarthy. In your testimony you mentioned that the – this piece of legislation clarifies Federal preemption of local government consideration of radio frequency issues and of local regulations that prohibit or have the effect of prohibiting wireless service. Give me an example – cite an example for me where, where that would come into play.

MS. McCARTHY: Well, you know, I think in terms of an example of radio frequency issues, certainly, you know, any local zoning provision that would, would be reviewing, would be, you know, requiring any more than sort of a basic showing of need for the facility. Any local provision that would maybe get into, you know, showing that, you know, a proposed site would have to improve coverage by X percent or would have to, you know, provide you with, you know, more bars on your cell phone and, you know, on the interstate. I mean, that's the kind of substitution, you know, of, of the network providers' own expertise in their network management by a local government that would be prohibited and preempted by Federal law. And then in terms of regulations that prohibit or have the effect of prohibiting wireless service, one example that I can think of is that, you know, if, if a jurisdiction were to say that if carrier A has service in the fac – service in the municipality, then, you know, they consider that sufficient, and carriers B, C, and D, you know, don't – you know, aren't allowed to augment their own coverage in that municipality. That would have the effect of prohibiting wireless service, and that term is –

comes from the Federal Telecommunications Act and, and its limits on local government's actions in reviewing these facilities.

REPRESENTATIVE MATZIE: Is it – and thank you for that answer. Is it your take relative to what, maybe piggy backing on what Representative Ellis's question was with the, with the FCC. Have they, have they stayed – has the FCC stayed in touch with and kept up with technology relative to your industry that, that could keep, keep things rolling along?

MS. McCARTHY: They have – this FCC, particularly, I think, at the Federal level, has recognized, you know, things like the need for more spectrum, you know, more sort of radio frequency available to, to mobile wireless providers that are deploying high speed networks, and I think that in the national broadband plan this FCC has shown a particular sensitivity to how local, local review can oftentimes be a delaying factor in deploying these networks.

REPRESENTATIVE MATZIE: Thank you. I appreciate the – appreciate your answer, and I, and I think it's important that we have this dialogue just because of how large our state is and how diverse it is and, and the need for broadband to be a part of any discussion. Thank you.

CHAIRMAN GODSHALL: Thank you. I would like to recognize Representative Harhart from the Allentown area who has joined us. I have – you know, I guess when this was called to my attention early on, it was on using existing facilities more so than – and the delays involved there. In some cases, in one case, at least, when one of the – somebody from the industry came to me. It had to do – they were being asked for a land development plan on, on an existing structure. To add, you know, their, their product on the existing structure, they were asked for a land development plan, had to go before the zoning hearing board and, and all kinds of – which, you know, meant endless delays and an endless amount of money. And, you know, my inclination is if there is a tower there which is already approved by the township and in all

likelihood through a land development plan, why do we need a second land development plan? And why do we need another zoning hearing, you know, on that? A zoning hearing in my area or my township is \$650 to start, and so – plus the attorney’s fees and plus everything else. So that was one of the concerns, you know, that I really had. I mean, we approved something, but, you know, to add to that, we’re going through all kinds of hoops and all kinds of time, you know, so that was one of my major concerns. So I would appreciate – I appreciate your information and say thank you very much.

MS. McCARTHY: Thank you.

CHAIRMAN GODSHALL: I’d like to ask Richard Williams testifying on behalf of Verizon.

MR. WILLIAMS: Good morning, Mr. Chairman and members of the committee. My name is Richard Williams. I am an attorney from Kingston, which is in Luzerne County, Pennsylvania, right across the Susquehanna River from Wilkes-Barre, and I have been in practice since 1994, but more specifically representing wireless carriers in the Commonwealth since 1997. I have been involved in hundreds of jurisdictions throughout the Commonwealth and have seen firsthand these applications, how they’re treated by municipalities, and how municipalities address them since my practice of 1997. I’ve also witnessed the difficulty carriers have had over the years in trying to site applications, not only for new structures, new towers, but also collocation applications, as well. So to put it bluntly, I’m the person with the, with the real estate professionals who are in the trenches who handle these type of applications on, on a daily basis.

Now, prior to addressing the issues that I have noted upon my review of the bill, I wanted to provide a brief example of an issue that this legislation will alleviate if enacted. In fact, this

issue has just arisen really within the last three weeks, and this specifically involves an application that a wireless carrier has with respect to a rooftop installation on a building owned by a member of the State System of Higher Education.

Within the last three weeks, the civil engineering professionals and I met with the zoning professional within the township to discuss the application and the carrier's proposal to collocate its antennas and its equipment cabinets on top of the building. The building is a nine-story structure owned by the University which houses administrative offices and, and both dormitories. In meeting with the land use official, the zoning officer within the community, we were advised that this application is going to involve and require a number of variances from the provisions of the zoning ordinance. In fact, upon review of the zoning ordinance, it was determined that we were going to need to apply for and obtain a use variance from this particular ordinance.

And I can tell you being involved in zoning for years and years that a use variance is perhaps the hardest type of relief to obtain from a zoning hearing board. The standards adopted by the Pennsylvania courts with respect to use variances are extremely high. You essentially have to prove that the property is valueless and cannot be used for any other purpose, and here we're dealing with an existing structure that's already being used by the University, so that burden is, is even more difficult in this particular instance.

As I mentioned, the antennas would be placed upon the roof of the building. In addition, the carrier would place its equipment cabinets on top of this nine-story building. We were advised by the municipality that collocations, not just rooftops or water tanks or utility structures or collocations upon existing structures, would only be permitted by right in three of its thirteen zoning districts. In fact, many of the commercial and industrial zoning districts would not allow any type of collocation-by-right. Rather, a variance would have to be retained or obtained with

respect to these items. In this case, it seemed for the carrier a win/ win situation in that it was placing its antennas and equipment upon an existing structure, and it was providing a member of the State's System of Education with a revenue source outside of its normal, of its normal flows. So it seemed to be a win/ win for all parties concerned. However, now we're faced with an application that we're going to have to be filing within the next several weeks to the zoning hearing board, which, quite frankly, can be approved or denied on the basis of the opinion of three individuals. So that makes the process much more difficult for the carrier and much – and, and the deployment of its network in trying to provide the reliable service that it is mandated by the FCC to provide.

I also wanted to mention that we were advised in meeting with the zoning official that another carrier was also interested in locating its equipment upon a building on that same university. That – again, that carrier will have to go through the same process that this – the carrier I represent will have to proceed with. So there you have two carriers facing a situation where we're going to have to request variances, and as I mentioned, it can be approved or denied, really, on the basis of the decision of three individuals, given the standards applicable to use variances throughout the Commonwealth.

With respect to the provisions of the bill itself, I just wanted to address three specific provisions for the committee's benefit. The first and most important is Section 4(b)(2), which establishes a process to allow a municipality to notify a carrier that its application is deemed deficient. In other words, a carrier files an application, the municipality has an opportunity to review it, they can advise the carrier that the information is not sufficient, and if in fact, the information is not provided by the carrier within fourteen days, the application will be deemed denied. And the issue upon review that I would have with this provision of the bill is with

respect to the deemed denial provisions of it. So in other words, if the carrier does not provide the backup information within fourteen days, the application would be deemed denied, and the issue that I have with respect to that specific provision is threefold.

First, within the last month, Congress passed the Middle Class Tax Relief and Job Creation Act of 2012, which is HR 3630, and in that Act, Congress essentially provided that a municipality or a local state or government shall approve eligible facilities request within, provided they do not substantially increase or modify a tower structure, or, or an eligible – a base station. And in that case it doesn't provide for any type of any type of denial of the application, so in other words, you have Federal legislation which specifically indicates that the application must be granted if based upon an eligible facilities request, and you have this particular section of the proposed bill providing that the application can be deemed denied if in fact the information is not provided. So in my opinion, that would be a conflict with Federal law and that the provisions of the Federal, the recently enacted Federal legislation would preempt that provision of the bill. So for those reasons, I would believe that that portion of the bill should be removed prior to enactment.

The second point I would note with respect to Section 4(b) relates to existing laws under the Pennsylvania Municipalities Planning Code. Under the MPC, which governs zoning in Pennsylvania, there are certain provisions which allow for deemed approvals of applications. For instance in the zoning context, if once an applicant files an application for special exception or variance, the zoning board must act on that application within the period of sixty days. If the board does not act on the application within sixty days, the application is deemed approved.

Similarly, once a hearing is held, if the application is contested or opposed, the board must issue a written decision within forty-five days of its application. If the board does not issue

a written decision within that forty day – five – forty-five-day period, the application again is deemed approved.

With respect to the land development aspect of the application, once a land development application is filed, the board has ninety days, or the governing body essentially has ninety days in which to either approve or deny the application. If in fact the application is not approved or denied within that ninety-day period, the application is deemed approved. What does not appear in the Municipalities Planning Code, however, is a provision that allows a municipality to essentially deem deny an application if, if deemed incomplete. So I would suggest that this legislation would provide municipalities with a right that, that does not exist currently under the Municipalities Planning Code or under Federal law, as well.

The final point I'd like to make with respect to Section 4 of the proposed bill relates to the shot clock ruling, which the prior, prior presenter referred to in her testimony. That procedure requires municipalities to act upon collocation applications within ninety days. If someone is going to, or if a municipality is going to deem deny an application within that period, technically that, by virtue of it being incomplete, that may also be inconsistent with that shot, shot clock ruling, as well. So that causes a concern relative, relative to that provision.

In addition to Section 4(b) of the bill discussing the deemed denial app – or the deemed denial provisions of the bill, the, the section addressing when collocations upon existing structures may be located is likewise problematic. Specifically, Section 3(b) of House Bill 2061 allows a municipality to regulate a collocation application if the collocation will require the structure to be lighted, if the collation will cause the structure to exceed the maximum height limitation of the local governing authority for wireless structures, and the collocation will cause the wireless support structure to exceed the minimum setback requirement for wireless support

structures. And why this becomes an issue is a result of that recent Federal legislation, which I just mentioned, that had been enacted within the last month. Under that legislation, Congress allows a municipality to, let's say, further examine or analyze a collocation request if it substantially changes the physical dimensions of the structure. And all the term – although the term “physically change” the, the structure, or “substantially change” the structure is not defined within the House Bill, the FCC has provided some guidance on that issue for several years.

Specifically, in 2001, the FCC and the state offices of historic preservation officers and the carriers entered into what's known as the National Programmatic Agreement for purposes of state historic preservation and determining whether there's impact on any state historic preservation. And with respect to that particular agreement, the FCC has essentially defined “substantial change” as increasing the height of the structure by more than 10 percent or 1 additional antenna array with the separation not to exceed 20 feet, whichever is greater, or if the, the base of the structure where the appurtenance is to placed exceeds 20 feet or the base, whichever is greater. So essentially, the FCC, through its provisions of dealing with carriers in the past, has a practice of defining a substantial change in those fashions. And since the language of this particular bill would conflict with what the FCC has said in the past, there would seem to be a field preemption issue in that regard and that the FCC's issues on and definitions with respect to substantial change would take precedence. And for those reasons, I would suggest that this bill be changed to basically mirror what the FCC has said with respect to what is substantial change in the structure would be.

The final point that I wanted to speak of with respect to the bill relates to Section 2, discussing the definitions of the – of, of what this particular bill would cover and, more specifically, the definitions of collocation and wireless support structures. I would recommend

to the committee that the bill be expanded to cover both rooftops, utility structures, and water tanks, as the committee may be aware not just towers or house antennas or collocations for these type of facilities. But also large buildings such as apartment buildings, commercial office buildings, hospitals, dormitories, things of that nature have been appropriate structures to house communication antennas and facilities. Secondly, water tanks and other types of utility structures such as large utility transmission lines have, have also been an appropriate avenue in which to, to house these type structures. For those reasons, I would suggest that, that the bill also be expanded to also address those because I have indicated in my initial experience over the past three weeks we have run through issues with respect to rooftops and other type structures, which in many circumstances are the least intrusive alternative to locating a facility and providing wireless service in a particular community.

And finally, I just wanted to bring up one point that is not in my outline testimony, but I think Chairman Godshall raised a good point relative to land development applications. I personally have been involved in applications where a municipality has required that a land development application be filed for a collocation, and when you're talking about disturbance to the ground in terms of a collocation application, basically, what you're talking about is the installation of a 360 square foot equipment shelter on the ground, which in many circumstances is the size of a, of a shed, what you might find within a residential back yard. Nevertheless, because it is commercial in nature, the municipality has taken, taken the position that that does require a land development approval, which requires an application fee, engineering review fees, and a longer review time because those applications are reviewed by the township engineer for compliance prior to approval.

For – so for those reasons, I would suggest that now is an appropriate time to move forward with the bill, and I would welcome any commiss – questions from the committee at this time and appreciate the opportunity to testimony before you today. Thank you.

CHAIRMAN GODSHALL: Representative Evans.

REPRESENTATIVE EVANS: Thank you, Mr. Chairman, and thank you, Mr. Williams, for being here this morning. I wondered if you could outline in a ballpark figure what costs are incurred when you have to go through these variance procedures and construction permits, etc. Is there a variance in costs from one area of the Commonwealth to another, or is it a pretty standard fee?

MR. WILLIAMS: It does vary. In most circumstances, the fee for a hearing before the zoning hearing board does not exceed \$1,500, but you will see some variance in the Commonwealth from what those fees are. For instance, in some municipalities you may see a fee of three hundred dollars to file an application. In other municipalities you may find a fee of \$1,500 to file the application. That's with respect to the application fee itself. In addition, the applicant usually has to pay for a stenographer. These, these hearings have to be transcribed, so that is an additional fee, usually between \$250 to \$500 for that fee. In addition, an applicant, if a hearing is held, has to bring its professionals, which would be in most circumstances a civil engineer, a radio frequency design professional, and an attorney, so those fees, as well, are, are, I would suggest, approximately \$4[,000] to \$5,000 per hearing in addition to the application fees and the fees that are charged by the municipality. But it does range from approximately \$400 to \$1,500 throughout the Commonwealth.

REPESENTATIVE EVANS: Okay, my second question deals with the issue of when – I'm trying to think here. I lost my train of thought here momentarily. I guess I'll come back. I

was going to get into some more of the issues as far as how the Federal government mandates that you mentioned in your testimony contradicts what happens at the local level. I wondered if you could elaborate a little bit more on that for our understanding.

MR. WILLIAMS: Certainly. For example, in this particular piece of legislation, it provides for a heightened level of review in certain circumstances, such as if the structure would require a lighting, such as if you were to exceed the setback, or if you were to exceed the height limitation in the municipality for, for the height of the structure. And that potentially conflicts with FCC mandates which have defined a “substantial change” as being something different. They’ve defined a substantial change as if the – any addition would increase the height of the structure by more than 10 percent or essentially 20 feet, whichever is greater, or if the addition of the appurtenance, essentially the antennas on the tower, would exceed the width of the tower by more than 20 feet or by the base of the tower at that particular point. So that on one hand, you have the FCC defining what a “substantial change” is. On the other hand, you have the Commonwealth defining what a “substantial change” is, and given the issues of field preemption and the FCC’s role in ensuring that these provisions are applied uniformly throughout the United States, you essentially or potentially run into a, a conflict with those rules and the FCC’s provisions with respect to that change of governing. So that was, that was an example of, of the preemption in that respect.

REPRESENTATIVE EVANS: Okay, thank you, and I’d just like to commend Chairman Godshall for introducing this legislation, because I think that as times change and as technologies change we need to be able to keep up with those changes in the Commonwealth, and I commend you for bringing this forward. Thank you.

CHAIRMAN GODSHALL: Thank you. Are there any additional questions?
Representative Ellis.

REPRESENTATIVE ELLIS: Thank you, Mr. Chairman. Just a real quick question, the examples you were using about the State System schools, are there any towers already existing on any of the state school properties, you know, any of the other schools right now as we speak?

MR. WILLIAMS: I can tell you that there are not just towers but also rooftop installations, water tank installations. In fact, in addition to the proposal which I just, just discussed, I'm also actively involved in an application on another State System of Higher Education property that previously involved a rooftop installation, but as a result of the university's needs and having to, to remodel that building, the applicant or the carrier in that case will be filing an application to site a new tower on the property. So in addition to buildings, you will see water tanks and existing towers on, and I should, I should expand – it's not only the State System of Higher Education's property, but you'll also see it on property owned by DCNR and other Commonwealth agencies, as well.

REPRESENTATIVE ELLIS: Okay, so it's not unheard of for the State to be, you know, partnering with the industry to site locations, and really what you're facing is just, you know, some municipalities dealing with it in a different way and holding up the process.

MR. WILLIAMS: That's correct, and it's not all municipalities. You will find some municipalities that do allow for collocation-by-right that basically they recognize that there's a streamlining associated with these applications and that they really are, in many circumstances, the least intrusive alternative to the construction of a tower and will allow the applicant to streamline that process. In other municipalities, however, they have a procedure where all applications are reviewed by an outside consultant, and the applicant has to make an initial

deposit in escrow of anywhere between \$5 to \$10,000 for that application to be reviewed from a radio frequency design standpoint, even though it is a, a new structure. But yes, the Commonwealth does partner. Some of the carriers I'm involved with have agreements and, and negotiate routinely with the State System of Higher Education, the Pennsylvania Turnpike Commission, DCNR, and other Commonwealth agencies, as well.

CHAIRMAN GODSHALL: Thank you. I was really interested when we put this together about the proliferation of towers, you know, on top of towers. I have one small municipality, just above my own township, that has four towers in a, you know, one small location each with one set of, well, you know, your whatever you call those requirements on top. It could be easily be one tower, you know, with all – with collocation, you know, with three – the other three companies. It's just – you know, this is what I would – you know, what I was really looking at. I, I mean, this was put together before that new FCC, you know, ruling that came out. We'll sure look at that and, you know, and go from there. But there's no question that there's going to be a lot more tower and tower equipment needed to take care of what we want to do and how we're doing things in this country, and it's just a matter of trying to, you know, minimize the appearance out there of, you know, of towers on every hill. You know, it's – if we can combine this, it's going to be beneficial for everybody.

MR. WILLIAMS: And, Mr. Chairman, the point you make is a very good one because what a carrier will generally do when it wants to collocate, wants to build a new facility, it's determined that there is a unreliable service within its network and determines that it has a need to fill that service. It will go out and first identify all existing structures to determine whether those structures can house antennas, and that would be an existing tower, an existing rooftop, or an existing utility pole or some other structure, because in most circumstances, or in many

circumstances, it's – it, it affords the, the carrier a cost advantage in that it doesn't have to build a structure, and also, in many circumstances, it's faster to permit it versus constructing a, a new tower, so encouraging this type of legislation would, would give even more weight to that, that incentive to collocate upon an existing structure since, in those circumstances, the carrier would know that its zoning process is already determined and that it can basically attach its antennas by right, and there'd be more of an incentive for a carrier to add its antennas to an existing structure versus building some other type of new structure within the community.

CHAIRMAN GODSHALL: And one, one just final question, when – if you have a tower with your equipment on it and somebody else wants to come, you know, on. If Comcast would want to come on that same tower, does that interfere with your, in any way, shape, or interfere with your equipment or – I mean, it's – your equipment is secure enough that, you know, any other people coming onto that same tower won't interfere with your, with your transmission and so forth.

MR. WILLIAMS: That's correct. Each of the carriers is licensed to operate within a certain frequency band, and they're mandated to stay within that band, so provided they maintain what's known as a separation distance, which is usually approximately ten feet on the tower between antenna arrays, there's really no chance of interference between the carriers. And, and by the way, most of the carriers have agreements, what we would call “master agreements” between each other to facilitate the collocation of their antennas on each other's towers. In other words, to make it easier, there's an agreement that's already in place and that if a carrier determines that it wants to add its antennas upon another carrier's tower, a simple lease supplement, which is usually a two to three page document, is executed confirming the, the lease terms, but the majority of the terms have already been negotiated by the carriers.

CHAIRMAN GODSHALL: Okay, thank you, thank you very much.

MR. WILLIAMS: Thank you very much.

CHAIRMAN GODSHALL: Our next presenter is Elam Herr, Director of Government Affairs at Pennsylvania Association of Township Supervisors, which my son is a member.

MR. HERR: Thank you, Mr. Chairman. My name is Elam Herr. I'm Assistant Executive Director for the Township Supervisors Association, and we are a non-profit, non-partisan association representing the 1,455 townships in Pennsylvania. I will keep my testimony relatively short and just hit some of the highlights, but also, so everyone knows, I will do full disclosure since it has been brought up several times. I sit on a zoning hearing board. I've sat on it for thirty-five years, and I can tell you that not everything that has been said is totally true at all times. I will get into some of those comments a little later from the personal perspective, which is totally separate from, from PSATS. Also, just so everyone knows that PSATS represents about 95 percent of the Commonwealth's land mass.

Our populations in the municipalities range from as small as 200 people in a municipality up to over 60,000, and what I'm here for today is basically to say is we support the collocation of wireless communications onto existing towers, and we want to commend the sponsor of the bill, the Chairman of the committee, and the rest of the Members on it for moving this legislation forward.

It has been a policy of our Association to promote collocation for the simple reason, and it was just stated by the Chairman. The proliferation of towers receives a lot of negative comments from the citizens within our communities, and as such, if we can collocate onto existing towers, that will eliminate some of the issues that are – that do arise. One of the other things to realize, and again, this follows a little bit to the previous speaker's comments. We also

support the concept of collocating on other structures beside the tower – existing support towers that the industry uses.

The only difference, I think, we would have compared to the previous speaker is that the municipality still should have some say over where those collocations can go and also some of the other aspects that go with it, and again, I will get into that a little later in my comments. Literally, you have my testimony in front of you. You can look at it later. We went through the testimony and did a lot of cut and paste to it to see where we had support for it and where we had some concerns to it. A lot of the things that we were addressing were things like the definition of collocation. If you look at what the definition says, it talks about collocation. It should be amended to replace “wireless facilities” with “antennas” because when you look at the definition of the facilities it includes base stations, and if you realistically look at the definition, what you’re saying is you could put a base station on a support tower. I don’t think that was the intent, but that’s just the way the two definitions don’t comply.

I should also say that the comments I’m making today. I met Friday, this past Friday with representatives of the industry and discussed what we were going to say today to allow them to understand that where we’re coming from, and some of the comments that I made we did have agreement on. Other ones we have to get back to with each other, but I would like to say that these comments are meant to be positive from the standpoint that we would like to see this bill move forward, but we do like to see the issues being addressed.

Just to give you a couple other quick examples of the issues that we raised. You looked at the definition of modification. As it’s written here, it says the improvement, upgrade, expansion existing wireless facilities on an existing wireless support structure. Again, it gets back to the idea of what the collocation is, and what we have suggested is when you talk about

the modification, you're talking about actually two different things. One is the modification of the support structure to hold the antennas and also potentially the modification of the accessory equipment that is there, those with the compound – the equipment that's located in the compounds that takes the transmission from the antennas and relays it.

The other thing is like definition of municipality – what has – the definition that they use in this proposal talks about the using the definition that comes out of the municipality's planning code, but they also include not only the municipality, but you include municipal authority. Municipal authorities do not have any land use authority. They do things that affect the land, but land use as far as approvals only comes through a municipality, be it a county, city, borough, or township.

As far as the shot clock, and that was mentioned earlier, that is a Federal requirement, and basically, since the law was passed – but the court case has just come down. We have agreed with the concept of the shot clock, and I would only suggest that, that whatever we do in this particular piece of legislation reflects what the, the Federal requirement is with the shot clock issue. Those are just some of the highlights.

If you look at the testimony, we have gone through, and we've been very complete with what is being said there, but I also would like to bring up about the recent law that was passed. Again, that was just referenced. It does say that a municipality shall allow collocation, and again, I think that's the intent of what this legislation is, but it's not all inclusive as I think the industry may try to make it be. And as such, I think the state still has the ability to set some parameters on what may and may not be done as far as the collocation, and again, I think that was the intent of this legislation.

The reference was also made about what the FCC has done with the definition of “substantial change.” Again, that was a guidance document that is being followed. Realistically, we have a problem with that. Think about this, and again, I will use my municipality, of which I was a zoning hearing board member, which we allow for collocation and on the collocation of that tower. If any of you drive down 283 around the state street exit, you will see it to the right. You will notice that there are several collocations on that tower. Every one of those came in front of the zoning hearing board. Every one of those were approved. We did listen to them, but if you use the definition of substantial change, that tower’s over four hundred feet. What is not clear is when they talk about a 10 percent increase to that tower, so it starts out at four hundred. Next, it’s 440, and then next is it 10 percent of the new height? Sooner or later, that tower gets to a height, realistically, if it can stand without falling over, but it becomes a safety factor.

That is one of the things that we look at when the applicant comes in. Is, is the request for a collocation meet the structural integrity of what that tower was when it was first built? If they come back with the engineer’s stamp saying it can hold the additional antenna array, my municipality does not have a problem with it for the simple reason we’d rather see collocation. The other thing that comes into play is when somebody collocates, what we’re looking at, and this goes for other municipalities, is the cover area that they’re proposing because if they’re coming in and saying, “This cell will take care of a certain cover area,” then the municipality also knows that that same provider does not have to come back in and ask for another tower within that same geographical location. We have had that within our municipality where they have collocated, and then, somebody comes back in and says, “We need something somewhere else.”

The last issue as far as collocation on other structures. Again, in my township we had a provider come in and want to locate on a water tank, which was no problem to the municipality. The neighbors had some issues, and their biggest issue was, "Can we be sure it would comply with the neighborhood?" So one of the requirements that the township asked for and the provider was willing to do was they painted all the cells the same color as the water tank. If you really look for it, you can see that the cells are there, but it does blend in. The second thing, which was the citizens also concern, was the equipment sheds at the bottom. They did not want a typical block building that you would see. They were saying, "This is a residential area." What can be done? The provider suggested and to the liking of the citizens that the shed that they would put in, which has to be secure, it is block, but it's built like a normal back yard shed. I will tell you it's the nicest looking back yard shed because it is made out of brick, but it blends in with the community. The municipality was happy. The provider was happy, and the citizens were happy.

But the reason that was done that way was because there was communication and talk between all the parties. How that was done was through the process of going through the zoning hearing board. Did we delay the process any? No. There's a time period that we follow. We followed it. The application was filed. We held the hearings. During the hearing, before the hearings came up, the provider met with the municipality, and at the time of the, the hearing, the citizens who raised their issue was met and provided. Provider agreed to, it went in. So there are cases where, only the other side, the system does work.

I think with this legislation you're promoting that type of cooperation and can facilitate what the intent is and that is to get more collocations out there. But to totally preempt and take away some of the input that the municipality may have could, on the other side, present potential

safety issues. With that, Mr. Chairman, I said I'd try to keep it short. I would like to extend our willingness to work with your staff and the committee members and the industry in order to promote the concept of, of collocation as we think would benefit the industry and the communities. Thank you.

CHAIRMAN GODSHALL: I have absolutely no problem, you know, with that, and this was putting something together. It's, it's the first attempt, you know, in looking at what is, you know, and will be a problem, you know, that's out there and into the future. You know, I, I – maybe we ought to get you down in my zoning hearing board. I think that might help, but a lot of the zoning hearing boards, I'm not sure, you know, of their expertise, you know, and only as far as the engineering going on this, as you mentioned, they sure don't have the engineering expertise without calling some kind of a structural engineer, I guess, in, and I don't know what that would cost. But I, I think, you know, that there's a lot of room, you know, to try to out here to try to fix this problem, and, and I would, you know, be willing to work with you, you know, on that. But it's – and going back to sort of my neck of the woods, you know, I know another thing that was thrown at me as far as deficient application, you, you know, it was – at the last minute, it came through with, you know, the application is deficient, and, and then it's deficient a second time with new – it can be deficient a second time with new requirements that weren't mentioned the first time. It's – there, there are and there have been, you know, specific, you know, just delaying attempts and delaying attempts and more and more information required which could have been done in the beginning if they would have really wanted to.

MR. HERR: Mr. Chairman, I have to agree with you on the concept. If somebody wants to prevent something, they can always find ways. I think that can be addressed in this to make sure that the, the applicant does provide with sufficient documentation to verify what is being

done, and also, there can be a time period put on that a municipality cannot continuously just ask for more down the road. And I think that can be addressed in the legislation. The second thing is I will also agree with you as far as the expertise on this issue. I will tell you years ago when the first case came in, I knew very little about wireless communication. I know more now than I want to know about wireless communication and what goes there.

CHAIRMAN GODSHALL: That's like me with Marcellus. Go ahead.

MR. HERR: Yeah, another good subject, yes, but with that being said, in the beginning, we would get a lot of applications in front of us for collocations or even new towers coming in that were not – placement of a new tower in an area that wasn't zoned for a tower. There were no engineering studies submitted with them. Now, the industry knows at least when they're coming in front of our board. They submit the engineering things. They are sealed with an engineer's seal. If they're there, we take them at their word because that engineer's seal does put liability back on that engineer. I think those types of things that are put in here can alleviate some of the issues that you have. And the expertise, will it completely end everything? No. And that's just human nature, for whatever reason, but again, the policy of our organization is that collocation of these type of facilities, again within reason, will be of benefit to the communities, and again, as the previous speaker said, does substantially lower the cost to the industry.

CHAIRMAN GODSHALL: Which is ultimately paid by the consumers. One, one other – I just thought of in one, one municipality – in one case down there they – the township asked for a health risk assessment.

MR. HERR: Federal law does exclude that. We used to hear it again in our hearings that – from the citizens, that the radio frequency waves will produce cancer. I'm not sitting here

to tell you whether it does, it doesn't, but the Federal law is very explicit about it. And when we start – when I start any hearing, because I am the chairman, on a cell tower or a collocation, one of the things in the comment is any concerns about radio frequency and cancer. Please bring up to your Congressman. It is not in front of this zoning hearing board. It usually does stop it. It doesn't make the citizens happy, but, you know, in the 1996 law it is very specific. We cannot address that issue, although again, as you well know as an elected official, when a number of people pound on you, it does still come into the, into the discussion.

CHAIRMAN GODSHALL: Okay, thank you very much. And I appreciate your offer of working, you know, on this bill to get it in the form that's beneficial to everybody. Is there any other questions? Yes, Representative Matzie.

REPRESENTATIVE MATZIE: Thank you, Mr. Chairman. Just a comment based on, on your testimony. You know, when you talked about the shed as an example when you had the discussion in front of the zoning board, I think that's a perfect example, having served on a planning board for, for the better part of twelve years and gone through all those continuing education courses to, you know, understand that the municipal planning code is your bible when you're a planner. Those were examples that were constantly brought up, and I think that that's an example that that really stands out to the general public because oftentimes many years ago when, when folks would maybe turn the other way, an eyesore would be in the middle of town, and you had no idea how that happened. And it went through the proper channels and proper procedures. I think a lot of that has changed, and having that opportunity to have that discussion, coupled with the fact that the technology is getting so much better, even with the cell sites and the, the telecommunications industry. I saw something on television the other day that said that, and it may already be in existence, and maybe we'll hear that from our testifiers later, that some

of these towers can now be as small as a Rubik's cube or smaller. So we're going to see that technology take place over the years, but that was a perfect analogy, and I think that would hit home with most, most folks that might be watching, watching here today, this hearing.

MR. HERR: Just a quick response to that. In two cases, also in my township, it doesn't deal with cell, but it does deal with the telephone concept in that years ago, and I won't name the carrier, they put up the most ugliest looking building in the world right in the middle of a residential neighborhood because they said they did not have to comply with the municipal requirements, and they're under the, the PUC. Today, it still is the ugliest-looking building in a residential area, but there was nothing the municipality could do. There's the difference between where they said "Forget it," and the other example where the wireless industry in the case I talked about was willing to work. The other one is a case I just had a couple months ago where, again, the industry wanted to put up antennas, what I will call the whip antenna type of thing, on top of towers. In this case, the provider was going to be an electric utility. Their concept was they were going to go out and put these poles up under the auspices of the PUC because they're controlled by the PUC and not run electrical lines to them with the concept of, "Well, somewhere down the line we might." And they had convinced the wireless community that they could put these whip antennas on. That kind of ran conflict with what we had seen because all of the sudden you would have these PUC towers, as I will call them, all over the place that didn't go through any type of review. We shot it down, and the cell provider was not really that upset because he found another place to "collocate," but again, without some type of municipal review of some of this, there's all kinds of ways. I think the industry in time, and you're seeing it more in urban areas where you're seeing smaller antennas. They're on street lights, on top of street

lights. There's just – again, what I call the whip antenna. It's just a single thing. Technology changes, and the industry is changing with it.

CHAIRMAN GODSHALL: Thank you. I, I just – you know, one of the things that might help, too, is on this issue is, and I know you do what you can and when you send information and so forth out, but an education, you know, more education on this issue, I think, could be beneficial, you know, to, you know, our constituents, to the industry, and also to the municipal officials. I really do. And as I said my son's a Supervisor, you know, and he and I have some battles occasionally. So, you know, he doesn't think I'm always right. You know, that's his problem, yeah.

MR. HERR: That's the problem with being a father. You should have known that by now. Luckily, he thinks sometimes you're not right. Most times you're never right, so, you know.

CHAIRMAN GODSHALL: Thank you very, thank you very much for being here. I'd like to call Jonathan Campbell, Director of Government Affairs for PCIA, The Wireless Infrastructure Association. Jonathan.

MR. CAMPBELL: Thank you, Chairman, and thank you, committee members. I'd just like to introduce our Association. PCIA, The Wireless Infrastructure Association, is the national trade association that represents the wireless infrastructure industry. That's a very diverse industry that includes not only the wireless carriers but those companies and folks who develop, own, and manage wireless infrastructure across the country and the, the vendors and services firms that facilitate the deployment of wireless networks. So our members really run the gambit from some of the bigger corporations that develop and own towers all the way down to what we call mom and pop shops. In fact, one of my good friend's family on their property actually own

a, a wireless cell tower here in the state of Pennsylvania, and they just own the one. It was something that they developed on their own. So it's – it really is a diverse industry, but again, I want to thank you for the opportunity to come here and to participate in this hearing on the Wireless Broadband Collocation Act.

House Bill 2061 is a significant step towards insuring that Pennsylvanians have access to the advanced wireless services and the economic and social benefits they provide everywhere at any time. In years past, wireless carriers' and infrastructure providers' work had been benchmarked by coverage, which is indicated by the now ubiquitous five bars you see at the top of your, your handsets.

However, the nature of wireless services, their use by consumers, and public safety, and the industry's benchmarks for delivering these services, continue to change rapidly. Wireless service providers are currently undertaking a multifaceted effort to deliver next generation wireless services, such as 4G broadband, while working to ensure that current and next generation networks have the capacity to handle the drastic surge in traffic associated with increasing adoption of smart phones, tablets, other data devices, and the truly wide array of applications and services that these devices provide. And one very telling statistic is by 2015 U.S. mobile networks are expected to handle 56 times the total data traffic that they experienced in 2009.

With limited spectrum resources, the efficient use of wireless infrastructure is absolutely vital to ensuring availability of wireless services. Wireless infrastructure including towers, rooftops, distributing antennas systems, and more is the backbone of wireless networks. Without it, wireless services cannot be delivered to end users. Collocating and, and modifying wireless facilities on existing structures, the subject of this bill, is the most efficient and cost effective

method of building out wireless networks and providing necessary capacity. Existing infrastructure has already passed an extensive local zoning and permitting process and can be used to deploy next generation public safety and commercial wireless networks. PCIA members estimate that the average new site build, that is a new tower, costs ten times as much as a simple collocation. Here the, the math is very simple. A carrier can employ – deploy – excuse me – ten times the wireless facilities on existing infrastructures for the same price as it could for just putting up one additional tower.

In recent years, numerous states and the Federal government have revised wireless siting laws and regulations to streamline the review processes for collocations and modifications. Just the short list of some of the states include California, Florida, Georgia, Nevada, your neighbor New Jersey, North Carolina, and Tennessee. And the FCC has also taken action to streamline some of its environmental and historic preservation regulations in recognition of the minimal impact on the surrounding impact at collocation and modification of existing facilities has.

And as has been raised by the previous folks on the panel here, Congress has enacted a streamlined process for collocation and modification of wireless facilities as part of its Middle Class Tax Relief Act, and this law requires state and local governments to approve applications for collocation and other modifications of wireless facilities that do not substantially increase the physical dimensions of the underlying tower, which, in effect, streamlines collocation, modification applications through only an administrative review process.

One thing I would like to touch on here is that there is, in fact, guidance from the FCC, as has been mentioned, in regards to the definition of substantial increase. This is more so than guidance. It was actually directly referenced by the FCC's shot clock declaratory ruling, which some of the folks have already discussed, and it is directly – directly applies to the application of

the FCC's rules that preserve local governments' authority over the construction, modification, and placement of wireless facilities, so it is, in fact, included in the FCC's regulations that that discussion of the increase of 10 percent or the appurtenance of more than 20 feet.

And another issue that I'd like to address is also the safety concerns. The purpose of this bill is to streamline the process. Looking at the underlining land use of the wireless facility. As I mentioned before, the tower itself has undergone extensive review for where it's being placed, how it is going to be used, and adding or modifying the facilities on that tower is not an expansion of that use. It's consistent with how it was initially approved, and it was approved through a very thorough process. But safety concerns dealing with the structure of the tower are addressed through the building permit review process. That is something that the wireless industry is, is very intent on maintaining. It's, it's – but the difference between that and the zoning process is that it is a step by step review. As mentioned previously, if an engineer presents his stamped assessment that, yes, in fact, that tower can support the additional weight load, wind load, etc., of the wireless antenna, then it's merely, for lack of a better term, checking the box. It is strong enough to handle it, and the process moves on as opposed to a discretionary review of whether or not the antenna is needed.

And that goes also to the point of coverage versus capacity. Right now, as wireless carriers are building out their networks, they are trying to contend with this rapid growth and data use, and so oftentimes an additional facility is necessary to handle the wide variety of traffic. For instance, right here on the, on the – here in the State Capitol, I can already see a lot of smart phone use. A lot of folks are using those devices to not only stream, possibly, this hearing right now but also download a lot of content, and so you could qualify this as a high use area, and the cell site that currently provides coverage to this might not necessarily be able to

handle that capacity. An additional cell site on an existing facility nearby can address those capacity issues.

So I urge the committee to, to continue the, the process of looking to streamline the review of the efficient use of non-traditional vertical infrastructure as addressed by some of the predecessors here on the, on the panel. These non-vertical structures, including utility poles and transmission towers, are really key to addressing not only the coverage gaps I discussed but also the capacity constraints. As these are often found in urban centers or areas where a new tower site or collocation opportunities on traditional wireless centric infrastructure may not be possible. And so these present a unique opportunity to, again, with minimal impact, bring the coverage and capacity that, that folks are so desperately looking for to these areas with very, very minimal impact.

So in conclusion, wireless networks, though subject to the regulations at the local level, are intrinsically regional and national. And in order to construct robust and ubiquitous wireless networks, consistency and predictability are essential to build out plans both now and in the future, and this bill provides that consistency and predictability. By recognizing the diverse array of wireless facility siting options and the efficient use of existing infrastructure, this bill can help ensure that the citizens, businesses, and first responders of Pennsylvania have access to advanced wireless services everywhere at any time. So thank you very much for, for inviting me here, and I welcome your questions.

CHAIRMAN GODSHALL: Yeah, a couple real quick questions. You mentioned right in the beginning, which wasn't part of your testimony, the amount of wireless usage, the increase in wireless usage, I think, over the next fifteen years. You had given an estimate.

MR. CAMPBELL: Yes, the, the estimate is about 56 times the data use from 2009, a 56 times increase, and so if you just look at that, that time period, you can see the proliferation of smart phones, the introduction of, I mean, how many models of the iPhone, etc., and so it's a very stark increase in the amount of data usage.

CHAIRMAN GODSHALL: Okay, thank you, and another – on a structural review of the – you know, if the tower can support the additional equipment, would that – should that be a licensed professional engineer documents they supplied, and Elam Herr had mentioned that. Should that be, you know – I don't know that that should fall on the townships, because they don't have the expertise to do it, nor do they, may know an engineer, you know, who could, who is proficient in that field. You know, where does that – where is that structural review document come into play on this thing?

MR. CAMPBELL: Sure, that's generally a part of the, the building permit process, and so it, it really....

CHAIRMAN GODSHALL: On behalf the applicant....

MR. CAMPBELL: Yeah, yeah it could be – it can be on the applicant, but when you look at any building permit review, be it constructing an addition to your house or, or a porch or anything like that, there are established guidelines that the applicant or a city engineer, whoever is the most available and the best person to review that, so the applicant can supply the engineer if necessary.

CHARIRMAN GODSHALL: Okay, one other thing. You, you mentioned California, Florida, Georgia, Nevada, New Jersey, Tennessee, and so forth, you know, have done really what we're looking at here, and have they – you – what process have they used? Where are they at? Briefly, are they doing what we're doing, or are they beyond us?

MR. CAMPBELL: They're all doing a process that is very similar. I mean, every, every state has its unique nuances to their bill, but they're all completely within the same vein as this. Some of this – some of the bills actually are very, very similar to what is being discussed here today.

CHAIRMAN GODSHALL: Might be good if you could supply us, you know, with those. I would appreciate that.

MR. CAMPBELL: Yeah, I would be happy to pass those along to you.

CHAIRMAN GODSHALL: Thank you, and Representative Metzgar.

REPRESENTATIVE METZGAR: Outside of the collocation issue with the proliferation of new sites particularly in rural areas, they would obviously need fed by fiber. In those rural areas, would it be prohibitively expensive for that to happen, considering that most of the, the cell sites that would be considered are probably fed by nothing or fifty percent copper?

MR. CAMPBELL: So the industry is trying to get fiber as much as possible out to its sites because it is, you know, in fact, the most efficient way, but in – as you mentioned, copper is oftentimes the, the fallback position. But with the addition of these facilities and the Federal government's recognition of the unique nature of wireless broadband and how it can bring access to broadband and high speed internet access out to rural areas, there's several initiatives at the Federal level, including revisions to the universal service line, etc., that are looking to address this issue. But I think this goes hand and hand. I think that if you can show that a wireless provider, all wireless providers can efficiently use a wireless facility, that would actually drive the demand for fiber to be fed out to that, so the wireless carriers themselves, not only through the money they're saving through collocation that they can then put into fiber, fiber deployment,

but for those third-party fiber providers, they will then have the incentive to build out the fiber with a tower that has three or four carriers who are all looking to use that fiber.

REPRESENTATIVE METZGAR: You're saying that the wireless providers themselves are – would be willing to pay for miles of glass to be laid in order to have these cell sites, and they would provide that to the Ilex?

MR. CAMPBELL: I mean, that's on a – I think that's a case by case basis. Oftentimes, it's the reverse. The Ilex provided, and the wireless carriers utilize it through individual agreements, but....

REPRESENTATIVE METZGAR: Wouldn't, wouldn't that create a problem, considering that the Ilex can no longer – you know, they have, they have adamantly said they can't afford to provision the, the high speed internet that they've been asked to do under Chapter 30 to begin with. How could they then provide you with, with high speed when they can't provide their current customers with it that they're by law supposed to be providing it?

MR. CAMPBELL: I'm not sure. I don't think I can, I can speak with specificity into the, the relationship between the wireless carriers and the Ilex in terms of fiber deployment. I – that's something that I don't really think comes up much in the field I operate, so I apologize.

REPRESENTATIVE METZGAR: I, I would suspect it would come a lot, though, wouldn't it? With, you know, this bill is essentially supposed to be for wireless proliferation, and the areas which need wireless proliferation more than any other are the rural areas, and the problem with the rural areas is there – is a failure to have a fiber backbone in order to do that. So how – we have a chicken and the egg issue. How would we provide – you would have a nice cell site without anything feeding it.

MR. CAMPBELL: Well, fiber to the tower is, is – may not necessarily be absolutely required. There could be a hub nearby that you can run copper to, and so what that distance is and, and, you know, the relationship between the Ilex and the carrier between say that fiber hub and running it out to the tower, I'm not sure. But, but, yeah, I think there is a way that fiber can go hand and hand with it.

CHAIRMAN GODSHALL: Thank you. Any additional questions? Thank you very much for your participation.

MR. CAMPBELL: Thank you.

CHAIRMAN GODSHALL: Final presenter is Nick Limberopoulos, okay, from the Pennsylvania Wireless Association.

MR. LIMBEROPOULOS: Thank you, Chairman Godshall. On behalf of the Pennsylvania Wireless Association, I'm here to offer written testimony on House Bill 2061. The Pennsylvania Wireless Association is comprised of members of all sectors of the wireless industry. These individuals are committed to educating customers and public officials about our industry and the critical role it plays in Pennsylvania. Our goal is to cultivate relationships between the various members of the industry and the local communities they serve to help ensure continued growth and development of our industry.

As I mentioned in our written testimony, we commend Chairman Godshall and the committee for introducing collocation-by-right legislation, which embodies the notion that collocating on existing wireless infrastructure is in the best interest of all stakeholders involved, including zoning authorities, the wireless industry, and the communities they serve. Now, one of the advantages or disadvantages of going last is that many of the prepared remarks that I intended to make have already been discussed at length, so I will keep my comments brief.

I think we can all agree that demand for advanced wireless services is on the rise. There are any number of statistics that we can look to, and I think we can all observe it every day as we go about our business. The demand for advanced wireless services will necessarily mean more antenna sites throughout the Commonwealth and throughout the country. One of the biggest impediments to deploying these antenna sites in the Commonwealth and throughout the rest of the country is unnecessary delays at the local zoning level, unreasonable conditions, and a general uncertainty of the politicizing of the process of obtaining local land use approvals at the local zoning level. As Chairman Godshall alluded to earlier, it seems unnecessary for a tower that's already met a local community's existing land use health safety and welfare review be subject to get another review when an incremental collocations add to that tower at some point in the future. And as Mr. Campbell alluded to, the industry is absolutely serious about maintaining existing structural standards for each subsequent collocation that comes on the site from the time that the tower goes into the ground to the time that the very last antenna goes on each support structure.

We also discussed how there are many other state collocation-by-right statues currently on the books, and more importantly, just last month, as we previously discussed, a Federal collocation-by-right legislation was signed into law by President Obama. We think in light of the recent developments at the Federal level, the people of the Commonwealth would not be well served by a collocation-by-right bill that duplicates or worse yet conflicts with applicable Federal law. Instead, we believe that there's an opportunity to augment and clarify various provisions of the Federal statute, which, if you take a look at my written testimony, is included in its entirety. It's, it's brief. It's to the point, and we think there are many opportunities to augment it for the benefit of all people in the Commonwealth of Pennsylvania.

And with that I'd like to go into some of the policy recommendations that we made in our written testimony. As I mentioned in the written testimony and as has previously been alluded to over the course of the past hour, we think there's an opportunity to expand the definition of "base station" as it's used in the Federal collocation-by-right legislation to include non-traditional support structures aside from wireless towers, such as rooftops, light standards, utility poles, and other free-standing vertical structures. The same basic policy concept applies there. Collocating on existing infrastructure maximizes their use. It provides the least visually intrusive, most cost effective way to get advanced wireless services to market.

Recommendation number two, we believe that the Pennsylvania House should clarify that any eligible facilities request as such as defined in the Federal collocation-by-right legislation to collocate on a wireless tower located within the Commonwealth should only be reviewed by a local permitting authority for the purpose of determining whether the proposed collocation complies with applicable structural standards. As I mentioned earlier, we take structural standards very seriously. We're not proposing to streamline that process in any way, shape, or form. Each new collocation should be accompanied by a sealed engineer's letter certifying that the collocation project complies with applicable structural standards. That process will absolutely remain unchanged.

Recommendation number three. We believe that we should clarify in accordance with Section 7210.502 of the Pennsylvania Uniform Construction Code that any eligible facilities request as such as defined in the Federal legislation receiving the streamline review will be granted or denied within thirty days of the filing date. That's from the Uniform Construction Code of Pennsylvania. Again, timely decision-making focused solely on matters within the jurisdiction of the local zoning and permitting authority will eliminate unnecessary delays in the

process. Finally, we welcome the opportunity to expand outreach efforts that might be launched in connection with this particular proceeding.

So in conclusion, the Pennsylvania Wireless Association appreciates the opportunity to testify. We applaud Chairman Godshall and the rest of the committee members for introducing this legislation. Things are happening in real time. The Federal collocation-by-right legislation was introduced just last month, and we think it would be in the best interests of all constituents throughout Pennsylvania to revise the bill to augment and clarify various provisions of the Federal collocation-by-right legislation. And with that, I'm happy to answer any questions.

CHAIRMAN GODSHALL: Any questions from any of the Members? I have no questions, either, and I appreciate your wrap up, and really, a lot of the things you had in here were discussed, and I do appreciate your conclusions, which were some of the things that we also discussed during the, during the hearing, so I thank you for being with us and appreciate it. I also would like to say that we received a letter from the Pennsylvania State Association of Boroughs. That bill – or that letter will be submitted for the record. And with no further ado, this meeting's adjourned. Thank you very much for all the testifiers.

Meeting is adjourned.

(Whereupon, the meeting adjourned at 10:56 a.m.)

The above is a full and accurate transcript of proceedings produced by the Chief Clerk's Office of the Pennsylvania House of Representatives.

Nedra A. Applegate, Chief Clerk's Office