Points of concern

Wireless Antenna & Equipment Legislation

AT&T, along with the Ohio Telecom Association and other wireless providers, is pursuing a legislative proposal that would eliminate local control for Ohio municipalities with respect to their rates, zoning and maintenance efforts regarding pole attachments of "small cell" wireless antennas and accessory equipment. The bill is extremely broad and gives wireless internet companies and speculators unrestricted access to not just municipal electric infrastructure, but also all municipal structures capable of supporting wireless antennas i.e. street lights, stop signs, water towers, public right-of-way and any other public facilities.

Concern with Legislation

Below are some concerns with how damaging this complex legislation would be to your community and municipal electric utility.

- This proposal strips away a municipality's constitutional authority for local control. Specifically, the draft bill would:
  - Permit any entity who files a completed request (this is not limited to telecommunications companies – could include speculators seeking to reserve space on your poles for resale) to attach a wireless antenna to *any* structure owned by a municipal corporation or build a new free-standing pole in the public right-of-way.
    - This would include attachments to critical infrastructure, such as water towers, police and fire facilities, and substations, raising security concerns.
    - This could also lead to multiple companies placing numerous poles within the right-of-way.
  - Permit the entity requesting consent to place accessory equipment (any size) anywhere in the right-of-way.
  - Exempt all proposed actions (construction of new facilities, pole attachments, increasing pole or other structure height up to 50 feet) from any local zoning requirement.

Above are several examples of wireless attachments to existing poles and a new pole (with equipment) erected in the right-of-way.

- Any dispute arising from local concerns with applications would be heard and decided by the Public Utilities Commission of Ohio (for those requests that are not automatically approved under the bill). Municipal electric utilities are currently regulated and accountable to their local communities and not the PUCO.
- Many small cities and villages do not have the necessary resources to negotiate, comply or challenge agreements through the costly PUCO process.
- One or more entities requesting consent could file a single city-wide application for multiple wireless antennas (1, 100, 1,000 antennas) and a municipality would have 30 days to undertake an initial review, and 90 days to approve.
- Abandoned wireless facilities would be the responsibility of the municipality.
- The legislation singles out municipalities and does not include infrastructure owned by rural cooperatives, investor owned utilities, townships, counties or the State of Ohio.
- We are unaware of any issues that AT&T or others have experienced in Ohio that warrant blanket Draconian restrictions specifically on municipalities through statute.
- Municipalities are already required to provide non-discriminatory access. This bill creates a special carve-out for telecommunications companies or other entities requesting consent.
- Municipalities are already required to charge fees that are reasonably related to the cost.

Additionally, permitting wireless attachments and the equipment needed to operate them on poles and other structures throughout a municipality's right-of-way could have negative reliability implications for electric utilities, as well as safety concerns for municipal employees responsible for infrastructure maintenance.

Concern with Precedent

Adoption of this legislation would set a terrible precedent for local control. Decisions about the safety and aesthetics of municipal infrastructure would be taken out of the hands of local decision makers and placed into the hands of corporations with no local interest other than financial. And although the language as drafted only applies to municipalities, it would be safe to assume that county, township and state property would be subject to the same restrictions in the future.

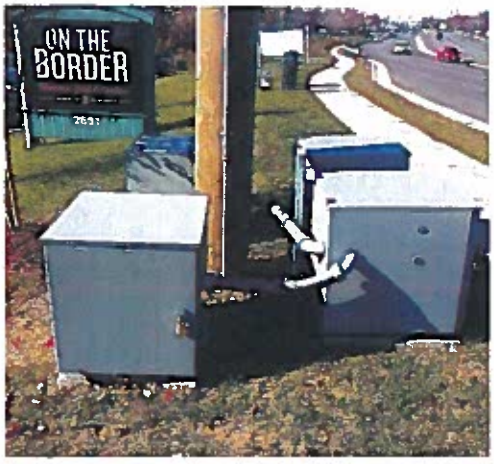
We are also concerned about the precedent of subjecting municipal policies to PUCO jurisdiction – something we have long argued against and is not in keeping with the principles of Home Rule. Governance and decision-making is best handled at the local level and disputes over local decisions can already be challenged at the local court level. Requiring cities and villages to appear in Columbus before the PUCO would be costly and time consuming and would pit municipal law directors against a fleet of utility regulatory attorneys. Additionally, the local control aspect of municipal electric operations has been an important factor cited by rating agencies in their favorable ratings on AMP's and its members financings.

Concern with Process

We are concerned about how the way in which this legislation is being pursued by the General Assembly. No formal legislation has been introduced, no legislative hearings have taken place and no widespread stakeholder meetings have been held. It wasn't until we reached out to AT&T that the first (and, to date, only) meeting took place. We have indicated our commitment to working towards a non-legislative solution, similar to the agreement we made with the cable industry in 2014, and we are attempting to negotiate in good faith with AT&T. However, it appears that they are intent on passing legislation during lame duck.

In the short-term and to assist in AT&T's efforts to get corporate investment dollars in Ohio for the deployment of 5G, we are proposing legislative language that would establish a statement of state intent that would include the creation of a working group to formulate recommendations by early 2017 for the deployment of advanced wireless services in rural and urban areas throughout the state. This working group would identify issues, barriers and opportunities and would be a collaborative approach to the roll out of 5G.

Should AT&T's legislation be adopted by the General Assembly, we fully anticipate a legal challenge to the constitutionality of the proposal. Such an outcome is likely to delay or complicate what AT&T is trying to achieve in the first place.



Additional examples of equipment enclosures (ground and pole mounted).

We encourage you to oppose this onerous legislation and support the alternative proposal to establish the state's intent and create a working group to formulate recommendations.