

No. 79. An act relating to broadband deployment throughout Vermont.

(H.513)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Legislative Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Department of Public Service data indicates that seven percent of Vermont addresses do not have access to the most basic high-speed Internet access, which is 4 Mbps download and 1 Mbps upload. Nearly 20 percent of Vermont addresses lack access to modern Internet speeds of 10 Mbps download and 1 Mbps upload. The Federal Communications Commission (FCC) defines broadband as a minimum of 25 Mbps download and 3 Mbps upload. Approximately 27 percent of Vermont addresses lack access to this level of service.

(2) As Vermont is a rural state with many geographically remote locations, broadband is essential for supporting economic and educational activities, strengthening health and public safety networks, and reinforcing freedom of expression and democratic, social, and civic engagement.

(3) The accessibility and quality of communications networks in Vermont, specifically broadband, is critical to our State's future.

(4) The FCC anticipates that a "light-touch" regulatory approach under Title I of the Communications Act of 1934, rather than "utility-style"

regulation under Title II, will further advance the Congressional goals of promoting broadband deployment and infrastructure investment.

(5) The FCC's regulatory approach is unlikely to achieve the intended results in Vermont. The policy does little, if anything, to overcome the financial challenges of bringing broadband service to hard-to-reach locations with low population density. However, it may result in degraded broadband quality of service. The State has a compelling interest in preserving and protecting consumer access to high quality broadband service.

(6) Reaching the last mile will require a grassroots approach that is founded on input from and support of local communities, whose residents are best situated to decide which broadband solution fits their needs. By developing a toolkit that encompasses numerous innovative approaches to achieving successful broadband buildout and by investing in programs and personnel that can provide local communities with much-needed resources and technical assistance, the State can facilitate and support community efforts to design and implement broadband solutions.

(7) Existing Internet service providers are not providing adequate service to many rural areas where fewer potential customers reduce the profitability necessary to justify system expansion.

(8) Multiple communities have attempted to implement their own unique solutions outside of traditional delivery methods but have been hampered by a lack of access to capital. Existing broadband grant programs do

not offer the scale to solve this problem, and banks and investors typically shy away from start-up businesses with limited revenue history and little equity or collateral.

(9) Community broadband solutions may mean either partnering with a new business that must design and build a network or with an established Internet service provider, which is followed by a 12- to 24-month process of initial customer acquisition.

(10) A growing challenge is the isolation that may result from increased reliance on the Internet and online communities. In rural settings, the physical and psychological draw into isolation is much greater simply as a result of limited chances for interaction with neighbors and community members. As we expand our access and reliance on the Internet, we need to be intentional in supporting our rural communities and town centers.

* * * VUSF; Rate Increase; Connectivity Fund; Specialist * * *

Sec. 2. 30 V.S.A. § 7523 is amended to read:

§ 7523. RATE OF CHARGE

(a) Beginning on July 1, 2014, the rate of charge shall be two percent of retail telecommunications service.

(b) Beginning on July 1, 2019, the rate of charge established under subsection (a) of this section shall be increased by four-tenths of one percent of retail telecommunications service, and the monies collected from this increase shall be transferred to the Connectivity Fund established under section 7516 of this title.

(c) Universal Service Charges imposed and collected by the fiscal agent under this subchapter shall not be transferred to any other fund or used to support the cost of any activity other than in the manner authorized by this section and section 7511 of this title.

Sec. 3. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

(a) There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative.

(b) Of the money transferred to the Connectivity Fund pursuant to subsection 7523(b) of this title, up to \$120,000.00 shall be appropriated annually to the Department of Public Service to fund a Rural Broadband Technical Assistance Specialist whose duties shall include providing outreach,

technical assistance, and other support services to communications union districts established pursuant to chapter 82 of this title and other units of government, nonprofit organizations, cooperatives, and for-profit businesses for the purpose of expanding broadband service to unserved and underserved locations. Support services also may include providing business model templates for various approaches, including formation of or partnership with a cooperative, a communications union district, a rural economic development infrastructure district, an electric utility, or a new or existing Internet service provider as operator of the network. Any remaining funds shall be used to support the Connectivity Initiative established under section 7515b of this title.

* * * High-Cost Program; Connectivity Initiative;

Speed Requirements * * *

Sec. 4. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST PROGRAM

(a) The Universal Service Charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.

* * *

(g) Except as provided in subsection (h) of this section, a VETC shall provide broadband Internet access at speeds no lower than ~~4 Mbps download and 1 Mbps upload~~ 25 Mbps download and 3 Mbps upload in each high-cost area it serves within five years of designation. A VETC need not provide broadband service to a location that has service available from another service provider, as determined by the Department of Public Service.

* * *

Sec. 5. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least ~~10 Mbps download and 1 Mbps upload~~ 25 Mbps download and 3 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, “unserved” means a location having access to only satellite or dial-up Internet service and “underserved” means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies from this Initiative shall be capable of being

continuously upgraded to reflect the best available, most economically feasible service capabilities.

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* * * VUSF; Prepaid Wireless; Point of Sale * * *

Sec. 6. 30 V.S.A. § 7521(d) is amended to read:

~~(d)(1) Notwithstanding any other provision of law to the contrary, beginning on September 1, 2014, in the case of prepaid wireless telecommunications service, the Universal Service Charge shall be imposed as follows:~~

~~(A) If the provider sells directly to a consumer in a retail transaction, the provider may collect the Charge from the customer at the rate specified in section 7523 of this title; or~~

~~(B) if the provider does not sell directly to the consumer, or if the provider sells directly to the customer in a retail transaction but elects not to collect the Charge from the customer, the Charge shall be imposed on the provider at the rate determined in subdivision (2) of this subsection (d).~~

~~(2) The Public Utility Commission shall establish a formula to ensure the Universal Service Charge rate imposed on prepaid wireless telecommunications service providers under subdivision (1)(B) of this subsection reflects two percent of retail prepaid wireless telecommunications service in Vermont.~~

~~(3) As used in this subsection, “prepaid wireless telecommunications service” means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use. [Repealed.]~~

Sec. 7. 30 V.S.A. § 7521(e) is added to read:

(e)(1) Notwithstanding any other provision of law to the contrary, beginning on January 1, 2020, the Universal Service Charge shall be imposed on all retail sales of prepaid wireless telecommunications service subject to the sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be collected by sellers and remitted to the Department of Taxes in the manner provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the Department of Taxes shall have 30 days to remit the funds to the fiscal agent selected under section 7503 of this chapter. The Commissioner of Taxes shall establish registration and payment procedures applicable to the Universal Service Charge imposed under this subsection consistent with the registration and payment procedures that apply to the sales tax imposed on such services and also consistent with the administrative provisions of 32 V.S.A. chapter 151, including any enforcement or collection action available for taxes owed pursuant to that chapter.

(2) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, then the seller may elect not to apply the Universal Service Charge to such transaction.

(3) As used in this subsection:

(A) “Minimal amount” means an amount of service denominated as not more than 10 minutes or not more than \$5.00.

(B) “Prepaid wireless telecommunications service” means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use.

(C) “Seller” means a person who sells prepaid wireless telecommunications service to a consumer.

* * * One-Time Transfer and Appropriation; Broadband Innovation

Grant Program; Federal RUS Grants and Loans * * *

Sec. 8. FISCAL YEAR 2020 ONE-TIME GENERAL FUND TRANSFER

(a) From the General Fund to the Connectivity Fund established pursuant to 30 V.S.A. § 7516: \$955,000.00 to be allocated as follows:

(1) \$700,000.00 to fund grants through the Broadband Innovation Grant Program established in Sec. 10 of this act.

(2) \$205,000.00 to fund grants through the Connectivity Initiative as provided in 30 V.S.A. § 7515b(b).

(3) \$50,000.00 to the Department of Public Service to assess the feasibility of providing broadband service using electric utility infrastructure, pursuant to Sec. 11 of this act.

(b) These monies shall not be subject to the distribution requirements of 30 V.S.A. § 7511(a)(1)(A)–(D).

Sec. 9. FISCAL YEAR 2020 ONE-TIME GENERAL FUND

APPROPRIATION

To the ThinkVermont Innovation Initiative established in 2018 Acts and Resolves No. 197, Sec. 2, \$45,000.00 is appropriated for the purpose of funding technical assistance grants to Vermont municipalities planning broadband projects.

Sec. 10. DEPARTMENT OF PUBLIC SERVICE; BROADBAND

INNOVATION GRANT PROGRAM

(a) There is established the Broadband Innovation Grant Program to be administered by the Commissioner of Public Service. The purpose of the Program is to fund feasibility studies related to the deployment of broadband in rural unserved and underserved areas of Vermont. The following conditions shall apply to the Program:

(1) In awarding grants under this section, the Commissioner shall give preference to feasibility studies that contemplate the provision of broadband service that is symmetrical.

(2) Eligible grant applicants shall include communications union districts and other units of government, nonprofit organizations, cooperatives, and for-profit businesses.

(3) Grantees shall produce an actionable business plan for a potential broadband solution, which may include formation of or partnership with a cooperative, communications union district, rural economic development infrastructure district, municipal communications plant, or utility. The business plan required by this subdivision shall include engineering and design plans, financing models, estimated construction costs, and ideal operational models.

(4) A grant award may not exceed \$60,000.00.

(5) Not more than 2.5 percent of a grant may be used for grant management.

(6) Not more than two electric distribution utilities shall be awarded a grant under the Program for the purpose of determining the market feasibility of providing broadband service using electric company infrastructure. Awards to distribution utilities shall be made pursuant to a competitive bidding process initiated not sooner than January 1, 2020, or upon submission of the report required by Sec. 11 of this act, whichever is sooner, and shall be consistent with the recommendations contained in that report.

(7) Studies funded through the Program shall conclude within six months of receipt of the award; distribution utility studies shall conclude within 12 months of receipt of the award.

(8) The Commissioner shall retain 50 percent of the grant award until he or she determines that the study has been completed consistent with the terms of the grant.

(9) Grant recipients shall report their findings and recommendations to the Commissioner of Public Service within 30 days following the completion of a study funded under the Program.

(b) To the extent such information is available, the Commissioner of Public Service shall aggregate the information submitted under subdivision (a)(9) of this section and shall report his or her findings and recommendations to the House Committee on Energy and Technology and the Senate Committee on Finance on or before January 15, 2020, and annually thereafter until all of the funds in the Program have been expended.

Sec. 11. STUDY; FEASIBILITY OF ELECTRIC COMPANIES OFFERING
BROADBAND SERVICE IN VERMONT

(a) The Commissioner of Public Service shall study the feasibility of Vermont electric companies providing broadband service using electric distribution and transmission infrastructure. Among other things, a feasibility determination shall address potential advantages of serving utilities' internal data needs and expanding fiber for providing broadband service, the compatibility of broadband service with existing electric service, the financial investment necessary to undertake the provision of broadband service, identification of the unserved and underserved areas of the State where the

provision of broadband service by an electric company appears feasible; the impact on electric rates, the financial risk to electric companies, and any differences that may exist between electric companies. The Commissioner also shall address any financial consequences and any technical or safety issues resulting from attaching communications facilities in the electric safety space as opposed to the communications space of distribution infrastructure.

(b) In performing the feasibility study required by this section, the Commissioner, in consultation with the Public Utility Commission, shall consider regulatory barriers to the provision of broadband service by electric companies, and shall develop legislative proposals to address those barriers. In addition, the Commissioner, in collaboration with representatives from each electric company, shall evaluate whether it is in the public interest and also in the interest of electric companies for electric companies to:

(1) make improvements to the distribution grid in furtherance of providing broadband service in conjunction with electric distribution grid transformation projects;

(2) operate a network using electric distribution and transmission infrastructure to provide broadband service at speeds of at least 25 Mbps download and 3 Mbps upload; and

(3) permit a communications union district or other unit of government, nonprofit organization, cooperative, or for-profit business to lease excess

utility capacity to provide broadband service to unserved and underserved areas of the State.

(c) Any electric distribution or transmission company subject to the jurisdiction of the Public Utility Commission shall aid in the development of information and analysis as requested by the Commissioner to complete the report required by this section.

(d) The Commissioner shall report the feasibility findings and recommendations required by this section to the Senate Committee on Finance and to the House Committee on Energy and Technology on or before January 1, 2020.

Sec. 12. 30 V.S.A. § 3047 is amended to read:

§ 3047. COST ALLOCATIONS; SUBSIDIZATION PROHIBITED

In carrying out the purposes of this chapter, the electric revenues received from regulated activities of a cooperative shall not subsidize any nonelectric activities of the cooperative. A cooperative shall adopt cost allocation procedures to ensure that the electrical distribution revenues received from regulated activities of a cooperative do not subsidize any of the nonelectric activities and that costs attributable to any nonelectric activities are not included in the cooperative's rates for electric service. A copy of the cost allocation procedures shall be available to the public upon request.

~~Nonelectric activities of the cooperative shall not be financed by loans or~~

~~grants from the Rural Utilities Service of the U.S. Department of Agriculture
or any successor federal agency.~~

* * * Municipalities; Communications Plants; Public-Private Partnership;

Study of General Obligation Bonding Authority * * *

Sec. 13. 24 V.S.A. § 1913 is amended to read:

§ 1913. COMMUNICATIONS PLANT; OPERATION AND REGULATION

(a) A municipality shall operate its communications plant in accordance with the applicable State and federal law and regulation, and chapter 53 of this title, relating to municipal indebtedness, with regard to the financing, improvements, expansion, and disposal of the municipal communications plant and its operations. However, the powers conferred by such provisions of law shall be supplemental to, construed in harmony with, and not in restriction of, the powers conferred in this chapter.

(b) A municipality's operation of any communications plant shall be supported solely by the revenues derived from the operation of such communications plant, except that portion which is used for its own municipal purposes.

(c) A municipality may finance any capital improvement related to its operation of such communications plant for the benefit of the people of the municipality in accordance with the provisions of chapter 53 of this title, provided that revenue-backed bonds shall be paid from net revenues derived from the operation of the communications plant.

(d) Any restriction regarding the maximum outstanding debt that may be issued in the form of general obligation bonds shall not restrict the issuance of any bonds issued by a municipality and payable out of the net revenues from the operation of a public utility project under chapter 53, subchapter 2 of ~~chapter 53~~ of this title.

(e) To the extent that a municipality constructs communication infrastructure with the intent of providing communications services, whether wholesale or retail, the municipality shall ensure that any and all losses from these businesses, or in the event these businesses are abandoned or curtailed, any and all costs associated with the investment in communications infrastructure, are not borne by the municipality's taxpayers.

(f) Notwithstanding any other provision of law to the contrary, a municipality may enter into a public-private partnership for the purpose of exercising its authority under this subchapter regarding the provision of communications services. A municipality may contract with a private entity to operate and manage a communications plant owned by the municipality or may contract with a private entity to co-own, operate, or manage a communications plant. A communications plant that is the subject of a public-private partnership authorized by this subsection may be financed in whole or in part pursuant to this chapter and chapter 53, subchapter 2 of this title, provided the municipality first issues a request for proposals seeking an Internet service provider to serve or to assist with serving unserved and underserved locations

targeted by the issuing municipality. The terms of such a partnership shall specify that the owner or owners of the communications plant, as applicable, shall be responsible for debt service.

Sec. 14. RECOMMENDATION; GENERAL OBLIGATION

BONDS FOR MUNICIPAL COMMUNICATIONS PLANTS

The Secretary of Administration or designee, in collaboration with the State Treasurer or designee and the Executive Director of the Vermont Municipal Bond Bank or designee, shall investigate the use of general obligation bonds by a municipality to finance capital improvements related to the operation of a communications plant. On or before December 1, 2019, the Secretary shall report his or her findings and recommendations to the House Committee on Energy and Technology and the Senate Committee on Finance.

* * * VEDA; Broadband Expansion Loan Program * * *

Sec. 15. 10 V.S.A. chapter 12, subchapter 14 is added to read:

Subchapter 14. Broadband Expansion Loan Program

§ 280ee. BROADBAND EXPANSION LOAN PROGRAM

(a) Creation. There is established within the Authority the Vermont Broadband Expansion Loan Program (the Program), the purpose of which is to enable the Authority to make loans that expand broadband service to unserved and underserved Vermonters.

(b) Intent. It is understood that loans under the Program may be high-risk loans to likely start-up businesses and therefore losses in the Program may be

higher than the Authority's historical loss rate. Loans shall be underwritten by the Authority utilizing underwriting parameters that acknowledge the higher risk nature of these loans. The Authority shall not make a loan unless the Authority has a reasonable expectation of the long-term viability of the business.

(c)(1) Requirements. The Authority shall make loans for start-up and expansion that enable the Internet service providers to expand broadband availability in unserved and underserved locations.

(2) The Authority shall establish policies and procedures for the Program necessary to ensure the expansion of broadband availability to the largest number of Vermont addresses as possible. The policies shall specify that:

(A) loans may be made in an amount of up to \$4,000,000.00;

(B) eligible borrowers include communications union districts and other units of government, nonprofit organizations, cooperatives, and for-profit businesses;

(C) a loan shall not exceed 90 percent of project costs;

(D) interest and principal may be deferred up to two years;

(E) a maximum of \$10,800,000.00 in Authority loans may be made under the Program commencing on the effective date of this act; and

(F) the provider shall offer to all customers broadband service that is capable of speeds of at least 100 Mbps symmetrical.

(3) To ensure the limited funding available through the Program supports the highest-quality broadband available to the most Vermonters and prioritizes delivering services to the unserved and underserved, the Authority shall consult with the Department of Public Service.

(d) On or before January 1, 2020, and annually thereafter, the Authority shall submit a report of its activities pursuant to this section to the Senate Committee on Finance and the House Committees on Commerce and Economic Development and on Energy and Technology. Each report shall include operating and financial statements for the two most recently concluded State fiscal years. In addition, each report shall include information on the Program portfolio, including the number of projects financed; the amount, terms, and repayment status of each loan; and a description of the broadband projects financed in whole or in part by the Program.

§ 280ff. FUNDING

(a) The State Treasurer, in consultation with the Secretary of Administration, shall negotiate an agreement with the Authority incorporating the provisions of this section and consistent with the requirements of this subchapter.

(b) Repayment from or appropriation to the Authority in years 2021 and until the Program terminates is based on the Authority's contributions to loan loss reserves for the Program in accordance with generally accepted accounting principles. Any difference between the actual loan losses incurred

by the Authority in fiscal year 2020 through Program termination shall be adjusted in the following year's appropriation.

(1) The Program shall terminate when all borrowers enrolled in the Program have repaid in full or loans have been charged-off against the reserves of the Authority.

(2) Upon termination of the Program, any remaining funds held by the Authority and not used for the Program shall be repaid to the State.

(3) The accumulated total of the appropriation shall not exceed \$8,500,000.00 over the life of the Program.

(4) The Authority shall absorb its historical loan loss reserve rate before any State funds are expended.

(5) Additionally, the Authority shall absorb up to \$3,000,000.00 in Program losses shared with the State on a pro rata basis.

Sec. 16. FISCAL YEAR 2020 ONE-TIME GENERAL FUND

APPROPRIATION

To the Vermont Economic Development Authority, \$540,000.00 is appropriated to serve as loan reserves to administer the Broadband Expansion Loan Program established in Sec. 15 of this act.

Sec. 17. 10 V.S.A. § 219(d) is amended to read:

(d) In order to ensure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the Authority, there may be appropriated annually and paid to the Authority for deposit in

each such fund, such sum as shall be certified by the Chair of the Authority, to the Governor, the President of the Senate, and the Speaker of the House, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The Chair shall annually, on or about February 1, make, execute, and deliver to the Governor, the President of the Senate, and the Speaker of the House, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the Authority during the then current State fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which State funds may be appropriated pursuant to this subsection shall not exceed ~~\$175,000,000.00~~ \$181,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the Authority in contravention of the Constitution of the United States.

Sec. 18. 30 V.S.A. § 8064(a)(1) is amended to read:

(a)(1) The Authority may issue its negotiable notes and bonds in such principal amount as the Authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the Authority, establishment of reserves to secure the notes and bonds including the reserve funds created under section 8065 of this title, and all other expenditures of the Authority

incident to and necessary or convenient to carry out its corporate purposes and powers. However, the bonds or notes of the Authority outstanding at any one time shall not exceed ~~\$40,000,000.00~~ \$34,000,000.00. No bonds shall be issued under this section without the prior approval of the Governor and the State Treasurer or their respective designees. In addition, before the Authority may initially exercise its bonding authority granted by this section, it shall submit to the Emergency Board of the State a current business plan, including an explanation of the bond issue or issues initially proposed.

* * * Pole Attachments * * *

Sec. 19. POLE ATTACHMENTS; PUBLIC UTILITY COMMISSION

RULES

(a) The Public Utility Commission shall revise Rule 3.700 to implement the following:

(1) One-touch make-ready policies for pole attachments in the communications space. The Commission shall consider measures requiring pole-owning utilities to complete any needed pole replacements, and related electrical work, in sufficient time to make it reasonably possible for existing attaching entities in the communications space to comply with make-ready deadlines and shall also consider whether a pole-owning utility whose delays prevent timely make-ready completion by the attaching entities in the communications space should pay interest to the applicant.

(2) Measures designed to minimize delays and costs and promote fair and reasonable rates and the rapid resolution of disputes.

(3) Specifications for when a make-ready completion period commences and ends, including a process for extending the make-ready completion period in limited circumstances as defined by the Commission.

(4) Any other revisions deemed relevant by the Commission.

(b) The Commission shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before December 1, 2019.

(c) On July 15, 2016, the Commission opened a rulemaking proceeding to consider amending Commissioner Rule 3.706(D)(1) regarding the rental calculation for pole attachments. The Commission shall complete this proceeding and file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before June 1, 2020.

Sec. 20. 30 V.S.A. § 209(i) is amended to read:

(i)(1) Pole attachments; broadband. For the purposes of Commission rules on attachments to poles owned by companies subject to regulation under this title, broadband service providers shall be considered “attaching entities” with equivalent rights to attach facilities as those provided to “attaching entities” in the rules, regardless of whether such broadband providers offer a service subject to the jurisdiction of the Commission. The Commission shall adopt

rules in accordance with 3 V.S.A. chapter 25 to further implement this section.

The rules shall be aimed at furthering the State's interest in ubiquitous deployment of mobile telecommunications and broadband services within the State.

(2) The rules adopted pursuant to this subsection shall specify that:

(A) The applicable make-ready completion period shall not be extended solely because a utility pole is jointly owned.

(B) At the time of an initial pole make-ready survey application, when a pole is jointly owned, the joint owners shall inform the applicant which owner is responsible for all subsequent stages and timely completion of the make-ready process.

(C) If the make-ready work is not completed within the applicable make-ready completion period, the pole owner, within 30 days of the expiration of the make-ready completion period, shall refund the portion of the payment received for make-ready work that is not yet completed, and the attaching entity may hire a qualified contractor to complete the make-ready work. All pole owners and attaching entities shall submit to the Commission a list of contractors whom they allow to perform make-ready surveys, make-ready installation or maintenance, or other specified tasks upon their equipment. The Commission shall provide the appropriate list to an attaching entity, upon request.

Sec. 20a. LEGISLATIVE INTENT; POLE ATTACHMENTS

Sections 19 and 20 of this act, concerning revisions to Vermont's pole attachment rules, shall not be construed to endorse a particular generation of communications technology, be it wired or wireless. The revisions are intended to clarify the terms and conditions of pole attachments, in general, and to promote greater transparency and certainty for attaching entities and for pole owners and to do so in a manner that furthers Vermont's interest in achieving ubiquitous deployment of mobile telecommunications and broadband services within the State.

* * * Department of Public Service; Rural Broadband

Technical Assistance Specialist * * *

Sec. 21. RURAL BROADBAND TECHNICAL ASSISTANCE SPECIALIST

One new classified position, Rural Broadband Technical Assistance Specialist, is authorized to be established within the Department of Public Service in fiscal year 2020. Beginning in fiscal year 2020, this position shall be funded as provided under 30 V.S.A. § 7516(b).

* * * State Telecommunications Plan * * *

Sec. 22. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced

telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare the Telecommunications Plan for the State. ~~The Department of Innovation and Information~~ Agency of Digital Services, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs~~ statewide growth and development as they relate to future requirements for telecommunications services, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, economic development, technological advances, and other trends and factors that will significantly affect State telecommunications policy and programs. The overview shall include an

economic and demographic forecast sufficient to determine infrastructure investment goals and objectives.

(2) One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) An assessment of the current state of telecommunications infrastructure.

(4) An assessment, conducted in cooperation with the ~~Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government~~ Agency of Digital Services and the Agency of

Transportation, of State-owned and managed telecommunications systems and related infrastructure and an evaluation, with specific goals and objectives, of alternative proposals for upgrading the systems to provide the best available and affordable technology for use by State and local government, public safety, educational institutions, community media, nonprofit organizations performing governmental functions, and other community anchor institutions.

(5) ~~An~~ A geographically specific assessment of the ~~state status,~~ coverage, and capacity of telecommunications networks and services ~~is~~ available throughout Vermont, a comparison of available services relative to other states, including price and broadband speed comparisons for key services and comparisons of the ~~state status~~ of technology deployment.

(6) An assessment of opportunities for shared infrastructure, open access, and neutral host wireless facilities that is sufficiently specific to guide the Public Utility Commission, the Department, State and local governments, and telecommunications service companies in the deployment of new technology.

(7) An analysis of available options to support the State's access media organizations.

(8) With respect to emergency communications, an analysis of all federal initiatives and requirements, including the Department of Commerce FirstNet initiative and the Department of Homeland Security Statewide Communication Interoperability Plan, and how these activities can best be

integrated with strategies to advance the State's interest in achieving ubiquitous deployment of mobile telecommunications and broadband services within Vermont.

(9) An analysis of alternative strategies to leverage the State's ownership and management of the public rights-of-way to create opportunities for accelerating the buildout of fiber-optic broadband and for increasing network resiliency capacity.

(c) In developing the Plan, the Department shall ~~take into account~~ address each of the State telecommunications policies and goals of section 202c of this title, and shall assess initiatives designed to advance and make measurable progress with respect to each of those policies and goals. The assessment shall include identification of the resources required and potential sources of funding for Plan implementation.

(d) The Department shall establish a participatory planning process that includes effective provisions for increased public participation. In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO) and communications union districts, and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the ~~Department of Innovation and Information~~ Agency of Digital Services, whose views shall

be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Utility Commission.

(e) Before adopting the Plan, the Department shall first prepare and publish a preliminary draft and solicit public comment. The Department's procedures for soliciting public comment shall include a method for submitting comments electronically. After review and consideration of the comments received, the Department shall prepare a final draft. This final draft shall either incorporate public comments received with respect to the preliminary draft or shall include a detailed explanation as to why specific individual comments were not incorporated. The Department shall conduct at least four public hearings across the State on a the final draft and shall consider the testimony presented at such hearings in when preparing the final Plan. The Department shall coordinate with Vermont's access media organizations when planning the public hearings required by this subsection. At least one public hearing shall be held jointly with committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1,

~~2014, and then reviewed and updated as provided in subsection (f) of this section.~~

~~(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan shall adopt a new Plan every three years pursuant to the procedures established in subsection (e) of this section. The Plan shall outline significant deviations from the prior Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with committees of the General Assembly designated by the General Assembly for this purpose.~~

~~(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.~~

Sec. 23. TELECOMMUNICATIONS PLAN ADOPTION SCHEDULE;

RESOURCES

(a) It is the intent of the General Assembly that, regardless of when the 2017 Telecommunications Plan is adopted, a new Plan shall be adopted on or

before December 1, 2020 in accordance with the procedures established in 30 V.S.A. § 202d(e). The next Plan after that shall be adopted on or before December 1, 2023, and so on.

(b) If at any time it becomes apparent to the Commissioner of Public Service that the Department lacks the time or the resources to comply with the requirements of 30 V.S.A. § 202d or of this section, the Commissioner shall submit a report to the General Assembly on what additional resources or time are necessary. The report shall be submitted prior to the adoption date and with sufficient time to allow for any needed legislative action prior to the adoption date. The report may include a proposal for contracting with an outside entity to prepare the Plan, or a portion thereof, and, if so, shall include a suggested funding amount and source.

* * * Radio Frequency Emissions; Report * * *

Sec. 24. WIRELESS TECHNOLOGIES; PUBLIC HEALTH REPORT

(a) On or before January 1, 2020, the Commissioner of Health shall submit to the Senate Committees on Health and Welfare and on Finance and the House Committees on Health Care and on Energy and Technology a report on the possible health consequences from exposure to the radio frequency fields produced by wireless technologies, including cellular telephones and FCC-regulated transmitters. The report shall include a summary of available scientific data as well as a comparison of various emissions standards and guidelines.

(b) The purpose of this report is to provide policymakers and the general public information deemed significant by many Vermonters. It is not intended that the information gathered in the report be used to form the basis of policies that are inconsistent with federal law.

* * * E-911 Service; Power Outages; Reporting * * *

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING; RULE;

E-911 BOARD

The E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain or be apprised of, in a timely manner, system outages applicable to wireless service providers, providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911 calling capacity, whether caused by lack of function of the telecommunications subscriber's backup-power equipment, lack of function within a telecommunications provider's system, or an outage in the electric power system. The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before February 1, 2020.

* * * Backup Power; E-911 Service; Report * * *

Sec. 26. E-911 SERVICE; BACKUP POWER REQUIREMENTS;
WORKSHOP; REPORT

(a) Findings. As many telecommunications networks transition away from copper-based, line-powered technology, many consumers remain unaware that they must take action to ensure the availability of a dial tone in the event of a commercial power outage. As a result, this transition has the potential to create a widespread public safety issue if Vermonters are unable to access E-911 services during a power outage. In recognition of this issue, the FCC adopted rules placing backup-power obligations on providers of “facilities-based fixed, residential voice services that are not line-powered” (covered services). See Ensuring Continuity of 911 Communications, Report and Order, 30 FCC Rcd 8677 (2015), 47 C.F.R. § 12.5. The FCC rules mandate performance requirements and disclosure obligations on providers of covered services. After receiving concerns by Vermonters regarding provider compliance with the FCC’s backup-power obligations, the Department of Public Service filed a request with the Public Utility Commission to initiate a workshop on the matter. The Commission authorized the workshop on March 21, 2019, Case No. 19-0705-PET.

(b) Report. Given the critical public safety issues at stake, on or before December 15, 2019, the Public Utility Commission shall report to the General Assembly its findings regarding provider compliance with backup-power

obligations and shall recommend best practices for minimizing disruptions to

E-911 services during power outages through:

(1) consumer education and community outreach;

(2) technical and financial assistance to consumers and communities;

(3) cost-effective and technologically efficient ways in which providers

or alternative entities can provide such information and assistance; and

(4) ongoing monitoring of provider compliance with backup-power obligations.

* * * PEG Access; Joint Information Technology

Oversight Committee * * *

Sec. 27. PEG ACCESS STUDY COMMITTEE

(a) Creation. There is created a PEG Access Study Committee. The Committee shall consider changes to the State's cable franchising authority and develop for legislative consideration alternative regulatory and funding mechanisms to support public, educational, and government (PEG) access channels and services to communities across Vermont.

(b) Members. The Committee shall be composed of the following members:

(1) a member of the Senate Committee on Finance appointed by the Committee on Committees;

(2) a member of the House Committee on Energy and Technology appointed by the Speaker of the House;

(3) the Commissioner of Public Service or designee;

(4) a member of the Public Utility Commission or designee;

(5) a representative from the Vermont Access Network, selected by its

Board of Directors;

(6) a representative from a Vermont cable company, selected by the

Governor; and

(7) the Executive Director of the Vermont League of Cities and Towns or designee.

(c) Powers and Duties. The Committee shall consider changes in federal and State law and policy, market trends, and any other matters that have an affect on the availability of or funding for PEG access channels and services in Vermont. The Committee shall hold at least one public hearing on the value of PEG access television to Vermont communities; the costs of such programming and services; and funding options. The Committee shall solicit input from regulators, communications providers, access management organizations, and any other organizations or individuals it deems appropriate.

(d) Assistance. The Committee shall be entitled to staff services of the Department of Public Service, the Office of the Legislative Council, and the Joint Fiscal Office.

(e) Report. The Committee shall submit its findings and recommendations in the form of draft legislation to the Senate Committee on Finance and the

House Committee on Energy and Technology on or before November 15, 2019.

(f) Meetings. The Commissioner of Public Service shall call the first meeting of the Committee to occur on or before July 1, 2019. The Committee shall select a chair and vice chair from among its members at the first meeting. A majority of the membership shall constitute a quorum. A member's physical presence is required in order to count toward a quorum and to vote. The Committee is authorized to meet up to six times and shall cease to exist on December 15, 2019.

(g) Compensation and reimbursement. Legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. Except for members employed by the State, other members of the Committee shall be entitled to per diem compensation as provided under 32 V.S.A. § 1010(a) and mileage reimbursement as provided under 32 V.S.A. § 1267.

* * * State-owned 2G Microcells; Municipal Use * * *

Sec. 27a. 2G MICROCELLS; MUNICIPALITIES; EMERGENCY SERVICES

(a) The Commissioner of Public Service is authorized to spend up to \$100,000.00 for contractual services to provide resources and technical assistance to municipalities seeking to acquire or use State-owned 2G microcells for the purpose of providing emergency communications in areas

that otherwise would not have access to mobile wireless E-911 service, consistent with the objectives of prior State investments in microcell network infrastructure. Technical assistance shall include a cost-benefit analysis, which shall include consideration of rates and charges related to electric, backhaul, and geolocation services, pole rental fees, backup-power requirements, co-location requirements, the use of radio spectrum, and the negotiation of roaming agreements with national wireless providers.

(b) The Commissioner of Public Service is authorized to provide financial assistance to municipalities for capital costs associated with the acquisition or installation of 2G microcells pursuant to this section. The Commissioner shall establish uniform standards and procedures applicable to the financial assistance provided pursuant to this subsection and those standards and procedures shall be consistent with the objectives of prior State investments in microcell network infrastructure. The standards shall specify that the municipality is responsible for operational costs of any microcell it acquires under this section and, in addition, the standards shall require that such microcells become fully operational within a reasonable period of time.

(c) Notwithstanding any other provision of law to the contrary, a municipality may use funds generated by its taxing or assessment power for the limited purpose of paying costs related to the operation of microcells pursuant to this section.

(d) Contracts and financial assistance authorized by this section shall be funded with the \$900,000.00 capital appropriation to the Department of Public Service for a VTA wireless network pursuant to 2018 Acts and Resolves No. 190, Sec. 14.

Sec. 27b. 2017 Acts and Resolves No. 84, Sec. 16c, as amended by 2018 Acts and Resolves No. 190, Sec. 14 is further amended to read:

Sec. 16c. PUBLIC SERVICE

(a) The following sums are appropriated in FY 2019 to the Department of Public Service:

(1) VTA wireless network, <u>projects and technical assistance:</u>	\$900,000.00
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* * * Effective Dates * * *

Sec. 28. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 6 (repeal of prepaid wireless revenue surcharge) shall take effect on January 1, 2020.

Date Governor signed bill: June 20, 2019