



County Concerns and Suggestions: ROW Preemption Legislation of 2018

Presentation to Georgia House Rural Development Council

May 16, 2018

Blue Ridge, Georgia

“Smart Public Policy”

- ▶ Counties are not opposed to ROW small cell deployment.
- ▶ Last year, the wireless industry addressed the RDC, noting elected officials can facilitate deployment of small cells by:
 - ▶ Establishing streamlined access to ROW and permitting processes;
 - ▶ Establishing universal Master Leasing Agreements (MLAs) for small cell deployment; and
 - ▶ Ensuring pole attachment rates and fees are reasonable.
- ▶ All the above is reasonable.
- ▶ However, county officials must balance this need with the appropriate management of the public’s ROW.
- ▶ That balance was not met.
- ▶ ACCG’s concerns continue to focus on this balance.

- ▶ ACCG fully supported as part of its 2018 policy platform.
- ▶ Voluntary “**Broadband Ready Community Program**”:
 - ▶ Locals must first have comp plan element,
 - ▶ Single point of contact for all things broadband,
 - ▶ Timely processing (applications complete, expedited processing),
 - ▶ Reasonable and cost-based permitting fees,
 - ▶ No discrimination among providers,
 - ▶ No permitting moratoriums,
 - ▶ Must authorize ROW access,
 - ▶ DCA to develop model ordinance,
 - ▶ Non-compliant locals can be decertified, and
 - ▶ Locals given priority for state funding.

- ▶ Bills not aimed at facilitating rural broadband deployment.
 - ▶ U.S. House testimony of Brad Gillen, Executive Vice President, Cellular Telecommunications and Internet Association, Jan. 30, 2018.
- ▶ Rural counties are not receiving applications for ROW permitting.
 - ▶ Would likely have fewer issues with ROW encroachment.
- ▶ Concern is with already-saturated metro county ROW.
- ▶ Cobb, Columbia, Gwinnett Counties have received applications; all have adopted master agreements covering permitting process.
- ▶ They understand the need for deployment, and for balance.
- ▶ Industry seeks treatment like utility but...
 - ▶ Doesn't want to be regulated by PSC,
 - ▶ Be required to provide service statewide, nor
 - ▶ Pay franchise fees.

- ▶ ACCG has met numerous times with industry since 2017.
- ▶ They decided what “concessions” to make; no neutral third party.
- ▶ Several improvements, but many concessions wrought with legal loopholes.
- ▶ Snazzy pics of small cells, but bill authorizes near unfettered:
 - ▶ Poles (50' high),
 - ▶ Antennas (multiple, up to 6 cubic feet in volume and 10' higher than poles),
 - ▶ Equipment boxes (up to 25 cubic feet in volume),
 - ▶ Up to 4 cabinets (of undefined size) and other infrastructure,
 - ▶ Once installed, right to expand equipment, exponentially, so long as it does not “substantially change the size”
 - ▶ 500 feet apart? Per provider?
 - ▶ Note “adjacent” language.
- ▶ Governs entire field of the placement and regulation of wireless facilities and poles within local ROW.
- ▶ All existing ordinances and agreements are nullified.

- ▶ All applications must be approved unless they:
 - ▶ “materially” interfere with traffic control equipment or sight lines,
 - ▶ fail to comply with ADA or state/federal pedestrian access standards,
 - ▶ fail to comply with “reasonable and nondiscriminatory spacing requirements of general application concerning the location of ground mounted equipment or new utility poles”,
 - ▶ such spacing requirements shall not prevent a provider from serving any location,
 - ▶ fail to comply with applicable codes, or
 - ▶ fail to meet the requirements in this law.
- ▶ Locals are giving up all but a remote semblance of ROW management.
- ▶ Authority would rest entirely with the Georgia General Assembly.
- ▶ Citizens only hope to change law would rest with the state.

- ▶ Are fees appropriate?
- ▶ Will locals be inundated with too many applications at once?
 - ▶ Shot clocks are ticking and “deemed approved” awaits.
- ▶ Collocation is key, but is it really required?
- ▶ Removal or relocation for road widening adequate?
- ▶ Timely removal of abandoned equipment?
- ▶ Are safeguards adequate for historic areas and decorative poles?
- ▶ Is undergrounding language appropriate?
- ▶ Is public safety ensured - avoiding hazard areas and repairing damage to ROW?
- ▶ Is there adequate “spacing” to prohibit a free-for-all?
- ▶ Local poles mandate - enough time to make ready?
- ▶ Will speculative equipment be prohibited?
- ▶ Who is liable?
- ▶ Insurance or bonding? What enforcement exists for industry to comply?

- ▶ The State is exempted.
 - ▶ Many locals follow DOT expertise and utility accommodation guidelines.
 - ▶ This will force more equipment on local ROW.
 - ▶ Double standard impedes the statewide, streamlined process that proponents seek.
- ▶ EMC poles are also exempted. Collocations should be incentivized.
 - ▶ Will lead to proliferation of new poles.
 - ▶ Why double standard on local poles?
- ▶ Implications for cable and other franchise fees?
- ▶ Implications for others' access to ROW?
- ▶ State law will govern entire process:
 - ▶ Best get it right the first time around; change will be difficult.
 - ▶ Legislators, not commissioners, are the only ones who can change process.
- ▶ Should wireless providers be required to provide statewide service for receiving this public ROW access/benefit?

Thank You

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