



April 6, 2021

Hon. Zack Stephenson, Chairman
Commerce Finance and Policy Committee
Minnesota House of Representatives
509 State Office Building
St. Paul, MN 55155

Re: House File 1031; DE9 Amendment; Broadband Easements

Dear Chair Stephenson:

The Minnesota Cable Communications Association (MCCA) has strong concerns about the language in the DE9 amendment starting at Page 104, Line 11-Page 106, Line 5. This provision would provide special and unconstitutional privileges to electric coops with respect to private electric easements. The coops are asking the Legislature to expand these landowner contracts in scope to allow for the provision of broadband services by the electric coops (or by anyone they contract with). The bill provides a competitive advantage to cooperative electric companies who, if this language were adopted, would not have to negotiate private easements with individual landowners like every other broadband provider operating in Minnesota must do.

One MCCA member that operates in many rural areas has reported that they have 6,000 private easements. The sheer volume of easements which MCCA members must negotiate and obtain from each landowner underscores the unfair competitive advantage the DE amendment language would grant to rural electric cooperatives.

Now that electric cooperatives have decided to enter the broadband service market, it is critical that they compete under the same rules as everyone else. Instead, coops are asking the State of Minnesota for short cuts around land use/easement issues which, in addition to issues of competitive unfairness, raise serious concerns under the Takings Clauses of the U.S. and Minnesota Constitution.

When the coop easement bill (HF686) was heard in the Commerce Committee, it was “laid over pending further consideration.” It was our hope that stakeholder meetings would be convened to address the bill’s constitutional flaws, to make the bill competitively neutral to all broadband providers, and to address related barriers to broadband deployment, the rates charged by electric cooperatives for attaching to electric coop owned utility poles. There have been no discussions on the House side regarding this bill since it was heard in committee that we are aware of. There is no agreement among the stakeholders on these important level playing field and constitutional issues. Further, the bill has not been vetted by House Judiciary committee, even though it sets up an eminent domain like process of doubtful constitutionality.

The easement language in the DE amendment raises several major issues around rural broadband deployment. Expanding access to rural broadband is an issue many broadband providers are working hard on. Rather than hastily moving forward with a bill of doubtful constitutionality, and that plainly favors a single stakeholder at the expense of competing broadband providers, MCCA hopes legislators will consider convening a broader discussion about barriers to broadband deployment -- through which these and other issues can be addressed with the input of all stakeholders.

Sincerely,

A handwritten signature in cursive script that reads "Anna Boroff". The signature is written in black ink and is positioned above the typed name and title.

Anna Boroff
Executive Director

cc: Representative Rob Ecklund