



Testimony of

**Arturo Chang
State Government Affairs Counsel**

Before the

**Public Utility Committee
The Ohio Senate – 132nd General Assembly
Finance Hearing Room
3rd Hearing**

Thursday, March 22, 2018

Chairman Beagle, Vice Chairman McColley, Ranking Member Williams, and members of the committee, thank you for holding this important hearing and for the opportunity to testify on Ohio House Bill 478 (H.B. 478). I am the State Government Affairs Counsel of the Wireless Infrastructure Association (WIA), the principal organization representing the companies that build, design, own, and manage wireless facilities in the U.S. and throughout the world. WIA is a national trade association representing the companies that make up the wireless infrastructure ecosystem in the United States. Members include wireless carriers, infrastructure providers, and professional services firms that collectively own and operate more than 135,000 telecommunications facilities around the globe. WIA works to support the responsible and sustainable deployment of wireless infrastructure needed to deliver broadband access to all citizens and communities.

WIA is opposed to the current version of H.B. 478 because of two critically important definitions found in the bill. Specifically, the definition of “public way” and “wireless support structure.”¹

Regarding the definition of “public way,” as you may be aware, H.B. 478 is intended to expedite the construction of utility poles and/or collocation of small cell wireless facilities in Ohio's public right-of-way. Our concern stems from the inclusion of the term “public easement,” which could capture a swath space not traditionally understood to be for utility siting. WIA cautions the

¹ Sub. H. B. No. 478, as passed by the house, *available at* http://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_132/bills/hb478/PH/02?format=pdf.



members of this committee that including all “public easements” generally could subject many yet unanticipated locations to the installation of utility poles and small cell facilities, such as bike paths, lake and river access, and pieces of property that are not currently being used for utility siting. As such, WIA strongly recommends that only the areas subject to a public utility easement be included in this definition. Access to areas with a designated utility easement is necessary in small cell development because many existing utility or telephone poles may not be in the traditional right-of-way, but rather on property subject to the provisions of such utility easement.

The definition of "wireless support structure" is also critical because H.B. 478 would expedite the deployment of infrastructure inside the right of way. As such, it is important to be clear on exactly what types of structures would be built in Ohio’s public roadways, streets, and sidewalks subject to such expedited process. WIA’s concern is a specific sentence found in the current definition of wireless support structure in H.B. 478 that states "[...] pole, such as a monopole, either guyed or self-supporting." This specific section could unintentionally capture complex structures not normally seen in a public right-of-way, which are better left to the discretion of local zoning guidelines.

To address these concerns, WIA respectfully proposes two amendments that are intended to provide the necessary clarity for industry and localities throughout Ohio. The amendment would make two changes: first, it would include the term “utility” between “public” and “easement” so that the entire term reads “public utility easement.” Second, the amendment would delete the sentence “pole, such as a monopole, either guyed or self-supporting” from the definition of wireless support structure to ensure that only the appropriate structures are built inside the right of way subject to the expedited review process.

Thank you again, Chairman Beagle, Vice Chairman McColley, Ranking Member Williams, and committee members for holding this hearing and allowing me to testify. I look forward to continuing to work with you and the rest of the Committee to make additional progress on these subtle but very important provisions.



~~(L)~~(O) "Public way" means the surface of, and the space 121
 within, through, on, across, above, or below, any public street, 122
 public road, public highway, public freeway, public lane, public 123
 path, public alley, public court, public sidewalk, public 124
 boulevard, public parkway, public drive, public easement, and 125
 any other land dedicated or otherwise designated for a 126
 compatible public use, which, on or after July 2, 2002, is owned 127
 or controlled by a municipal corporation. "Public way" excludes 128
 a private easement. 129



(X) "Wireless support structure" means a pole, such as a 193
 monopole, either guyed or self-supporting, street light pole, 194
 traffic signal pole, a fifteen-foot or taller sign pole, or 195
 utility pole capable of supporting ~~wireless-small cell~~ 196
 facilities. As used in ~~section 4939.031 of the Revised Code~~ this 197
chapter, "wireless support structure" excludes ~~a~~ all of the 198
following: 199

(1) A utility pole or other facility owned or operated by 200
a municipal electric utility; 201

(2) A utility pole or other facility used to supply 202
traction power to public transit systems, including railways, 203
trams, streetcars, and trolleybuses. 204