



Comments Requesting Amendment to
HB 478
As Passed by the House of Representatives

Senate Public Utilities Committee
April 10, 2018

Good morning Mr. Chairman, Senators, staff members and interested parties. My name is Haran Rashes and I am Director of External Relations for ExteNet Systems, Inc., a privately held telecommunications company based in Lisle, Illinois.

ExteNet has a vital interest in HB 478 because we design, build, own, manage & operate indoor and outdoor distributed network systems to help meet the growing demand for improved mobile and wireless broadband coverage and capacity in key strategic markets across the United States – including many such markets here in Ohio. Distributed network systems bring wireless network elements such as low-powered wireless antennas and access points closer to the user to ensure ubiquitous and high-capacity wireless broadband connectivity.

Utilizing distributed antenna systems, remote radio heads, small cells, Wi-Fi and distributed core soft-switching technologies, ExteNet enables wireless service providers, enterprises and venues to better serve their subscribers, customers, workers, residents, tenants and communities.

ExteNet owns and operates multi-carrier -- often referred to as “neutral-host” -- and multi-technology distributed network systems to ensure multiple wireless service providers can provide their 3G and 4G LTE and eventually 5G services in the most effective and efficient manner. Utilizing our neutral host facilities, ExteNet also provides licensed and/or unlicensed spectrum to the general public on a nondiscriminatory basis. ExteNet creates a scalable network design utilizing its high-bandwidth fiber network to ensure that wireless network densification needs of users and wireless service providers are met and can evolve over time as user demands dictate.

Typically, ExteNet installs distributed network systems on existing utility poles, street lights, and other existing poles located in the public right-of-way. Access to these public rights-of-way for such distributed network systems are essential not only to ExteNet but also to the residents of the state of Ohio who are clamoring for more and more wireless access and bandwidth which they can only get from the natural increase in the number of wireless installations like ExteNet's.

In Ohio, ExteNet holds a Certificate of Public Convenience and Necessity authorizing ExteNet to provide competitive telecommunications services throughout Ohio, which was issued by the Public Utilities Commission of Ohio on November 29, 2006. In addition, ExteNet has a tariff on file to provide such competitive services.

We have pole attachment agreements in place in Ohio with AT&T Ohio, the City of Columbus – Division of Power, Cleveland Electric Illuminating Company, Duke Energy Ohio, Ohio Power Company, The Dayton Power and Light Company, The Ohio Edison Company, and The Toledo Edison Company. These agreements permit the placement of fiber, antenna and wireless equipment on utility owned poles within the public rights-of-way.

Today in Ohio, ExteNet and other entities who wish to build small cell nodes must apply to the municipality in which that proposed node is to be built. According to the United States Census Bureau, there are 3,702 local governments in the State of Ohio. Each of which sets their own process for dealing with right-of-way and small cell access; sets their own fees for right-of-way and small cell access; and sets their own timeline for dealing with applications for right-of-way and small cell access.

Dealing with 3,702 separate government agencies, each with individual rules, rates, and timelines covering the same activity can be confusing. HB 478 attempts to end that confusion by standardizing access to and the municipal fees for placing wireless telecommunications facilities within the public rights-of-way across the great State of Ohio. It would assure that federally guaranteed access rights for small cell and distributed antenna systems in the public rights-of-way are maintained in Ohio. In turn, this would result in the timely deployment of next generation 5G telecommunications and other telecommunications infrastructure vital to Ohio's economic welfare. At the same time, the municipalities would still maintain control over installations in the public rights-of-way located on an even playing field.

However, while the goal of HB 478 appears to be to end confusion and standardize the process of installing small cell nodes in the public rights-of-way, as written, it will only create more confusion.

ExteNet is certificated as a telecommunications provider in Ohio. ExteNet often provides unlicensed telecommunications spectrum, such as Wi-Fi, to the general public from its nodes. And under Sections 253 and 332 of the Federal Telecommunications Act of 1996, ExteNet has a right to place its small cell nodes in the public rights-of-way "on a competitively neutral and nondiscriminatory basis. However, HB 478, as passed by the House could cause confusion as to ExteNet's rights in the state of Ohio.

HB 478 defines a Public Utility and a Wireless Service Provider to include "a wireless service provider as defined in division (A)(20) of section 4927.01 of the Revised Code," which is "a facilities-based provider of wireless service to one or more end users in this state." ExteNet believes that it meets those definitions. However, when ExteNet is building small cell nodes that are for the use of other carriers, municipalities could argue that ExteNet does not. In addition, it can also be confusing when ExteNet is building "neutral-host" small cell nodes that will be used by more than one carriers (an advantage to the municipalities as it avoids multiple individual sites).

Such a result could cause confusion and, if interpreted by a municipality in a manner adverse to ExteNet could cause illegal discrimination under Federal law. This issue was identified in the Ohio Legislative Service Commission's Bill Analysis of Sub. H.B. 478 (as Passed by the House) on page 25, comment 6.

In other states that have passed such legislation, and so far, twelve other states have done so (with a thirteenth state, Illinois SB 1451, pending gubernatorial approval), the legislation has included a definition of "wireless infrastructure provider" as follows:

"Wireless infrastructure provider" means any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless service.

And "wireless infrastructure provider" is explicitly included in the definition of a "wireless provider."

In the case of HB 478, this definition should be added and Section 4939.01(R) should be modified to include a "wireless infrastructure provider" as part of the definition of a "Small cell facility operator" or "operator."

With this change, Ohio would be able to full benefit from Infrastructure improvements funded and built by private entities such as ExteNet.

HB 478 provides for attachment to municipally owned utility poles and structures under attachment rates that would be economically feasible and standardized throughout Ohio. In addition, HB 478 would encourage timely approval of small cell locations and installations, resulting in rapid deployment based on economics and consumer demand.

With the changes recommend above, ExteNet will be able to rely on the assurances contained in HB 478 that that access, the process, the fees for attachment of wireless telecommunications facilities to utility poles and other structures within the public rights-of-way would be the same in Tipp City, Napoleon, Cleveland, Columbus, Cincinnati, Toledo, where I attended Law School, or any other Ohio municipality.

ExteNet would support the passage of HB 478 if amended as discussed above.

Thank you.