

Transportation and Telecommunications Committee September 21, 2018

Rough Draft

FRIESEN: [00:01:04] The important people are here. Some are missing.

BOSTELMAN: [00:01:10] You can see.

FRIESEN: [00:01:19] Well, everyone, welcome to the Transportation Telecommunications hearing this afternoon. Today's LR is LR441 and it's kind of a conglomeration of telecommunications issues that have come up in the past, and so we kind of lumped them together into no particular order. But I think legal counsel O'Neill sent out a kind of a draft guideline to go by, so and many other issues we'll address. And so if you're going to come up and testify this afternoon, you need to state and spell your name. Be in the front chairs here so we can keep things moving, and I, I probably won't use the clock again this afternoon. But if you could hold your testimony down to five minutes or less, and if you, if I feel you're carrying too long I guess I'll, I'll try and cut you off, but I'll give you a heads up. But I didn't want to limit it too strictly here. So committee clerk Sally Schultz over there and Elice Hubbert is helping her, Tip O'Neill, the legal counsel, and I'll let the legislators, or the senators, introduce themselves, starting with Senator Briese over there.

BRIESE: [00:02:32] Tom Briese, District 41.

BOSTELMAN: [00:02:35] Bruce Bostelman, District 23: Saunders, Butler, Colfax County.

HUGHES: [00:02:41] Dan Hughes, District 44: 10 counties, southwest Nebraska.

GEIST: [00:02:45] Suzanne Geist, District 25: east side of Lancaster County, including Lincoln,

Walton, and Waverly.

FRIESEN: [00:02:53] And I'm Curt Friesen from District 34: Hamilton, Merrick, Nance, and part of Hall Counties. Senator Murante may be joining us this afternoon; I don't know. And Senator Hilgers may also join us later. With that, Tip O'Neill will kind of give an introduction to, to the LR, and we'll go from there. And oh, I want to introduce-- Grady and Heather are our pages today. And Grady is with the university, and she's from beautiful Nebraska-- or Grady is from beautiful Norfolk, right? I don't know who wrote that description, but I didn't. So thank you for helping us out today. Go ahead.

TIP O'NEILL: [00:03:31] Chairman Friesen, members of the committee, my name is Tip O'Neill. That's spelled T-i-p O-'-N-e-i-l-l. I'm your committee's legal counsel. Our second hearing today relates to issues raised in LR441. LR441 was introduced by Senator Friesen and provides for a review of telecommunications issues. Senator Friesen and I discussed the resolution and what information would be most helpful to the committee in terms of this hearing. And Senator Friesen recommended that we focus on three issues: first, whether existing statutes relative to state regulation of voice telecommunications services were necessary and appropriate; second, we needed to review issues relevant to enhancing small cell deployment in the state; and third, we had issues that came up during the last couple of sessions related to e-mail and caller ID spoofing. I provided materials to you and other interested parties in advance of the hearing, which included a copy of LR441, an introduced copy of LB573 from the 2017 session, which relates to the issue of voice telecommunications regulation, a copy of the committee statement on LB389, the small cell bill which was introduced in the 2017 session and advanced by the committee in 2018, an FCC document on spoofing and caller ID, and a WhatIs.com document on e-mail spoofing. I would be happy to answer any questions you might have at this time, but I think there are a lot of experts out in the audience who will be much better prepared than I from to talk about the details of these

issues. Dustin Blythe from AT&T has to be back in Kansas City early this evening and was granted permission from Senator Friesen to testify after me. So I'd be happy to answer any questions.

FRIESEN: [00:05:22] Are there any questions from the committee?. Seeing none, thank you.

TIP O'NEILL: [00:05:26] Thank you.

FRIESEN: [00:05:41] Yep. Welcome.

DUSTIN BLYTHE: [00:05:41] Hey, thank you, Senator and members of the committee. I actually have to be in Des Moines.

TIP O'NEILL: [00:05:47] Oh boy, I'm sorry, wrong one.

DUSTIN BLYTHE: [00:05:47] That's all right. I've got a, got a-- my daughter's softball game starts at 6:00, so I wanted to get home for that. I appreciate the opportunity to be here this afternoon. My name is Dustin Blythe, D-u-s-t-i-n B-l-y-t-h-e, and I'm the director of external affairs for AT&T for the states of Iowa and Nebraska. Appreciate the opportunity to write testimony in support of legislation that would encourage private sector investment in wireless broadband, specifically LB389, the small cell bill which would help deliver the best possible wireless capabilities to all Nebraskans. We're proposing a relatively simple bill that echoes efforts, across the country and on the federal level, to deliver advanced high speed wireless coverage to the use of small cell technology. Some 20 states, and counting, have already passed measures to encourage small cell deployment. These states have recognized the importance of small cells for their residents and businesses now and for the future. So why are we bringing this bill? The answer is easy: consumer demand. Consumers are using wireless data for texting, social media, web surfing, and video-- all

the services they use every day. Greater wireless data consumption requires greater wireless network capacity, and carriers' networks need to keep up with consumer, consumer demand. In our case, AT&T's case, 50 percent of our traffic now is video and it's climbing every year. Small cells are the building blocks for 5G, our next generation of communications technology, where nearly everything is connected to ubiquitous wireless networks at speeds 10, 10 times faster than today. Imagine communities that are smarter and more connected. Entire industries, from agriculture, health care and public safety, to transportation and education, will be transformed. That's the promise of next generation of wireless technology. To realize this future, future state and local legislators must remove barriers to efficient deployment of small cells. The following policy principles will expedite small cell deployment in Nebraska and were contained in LB389: first, access-- providers must have reasonable access to public's right, public rights of way so they can responsibly deploy small cells, which helps to meet consumer demands for faster data speeds; second, reasonable cost and fees-- application fees, attachment fees, and right-of-way access fees must be based on cities' direct management costs, without discriminating against any technology; three, streamlined siting processes-- cities should not treat small cells like tall macro towers, or tall cell towers. They should adopt streamline approval processes with expedited timelines and objective standards. Applications should be deemed approved if no action is taken within a specified time. I just passed out a map which shows-- so nearby states-- so from last session, nearby states which have just passed this would be Missouri, Oklahoma, New Mexico, and Utah. And then Iowa, Minnesota, Colorado, and Kansas passed the previous year-- there-- that border Nebraska. Small cells will help us bolster network capacity, better meet surging consumer and business demand for more data and faster connectivity. The industry is anxious to work with legislators, as well as the league, to sit, side by side, and go through a draft bill, line by line, that would benefit all Nebraskans. This industry and technology are moving fast at internet speeds. The need for infrastructure isn't something that we can put off for five years. We ask that everyone comes together and agrees on reasonable rates and work on a bill that we can agree on, that makes sense

for the entire state. As we have done in other states, we can sit down and agree on a bill that: one, preserves municipal control while, at the same time, ensuring that there are consistent and nondiscriminatory statewide standards to streamline the process for deploying small cells in the public right of way; two, but still give local government the authority to prohibit the construction of towers in the public right of way. The small cell bill is not a bill that authorizes large macro towers to be put in the public right of way. Three, ensures that the local governments impose reasonable and non-discriminatory fees for the use of the public right of way. Small cell permits and charges for small cell attachments to local government-owned structures such as street lamps and utility poles. I mean, for example, in Iowa we have passed a small cell bill, so statewide that's the FCC rate of like \$20 is the attachment rate. Here in Nebraska that can range from-- I think Omaha was-- the public right-of-way fee was \$500 and, obviously, here in Lincoln it's \$1,995, like almost \$2,000, so there is a big discrepancy in that, in those fees. These fees would still fairly compensate local government while also encouraging wireless providers to invest in wireless broadband technology. Fourth, ensures aesthetic accommodations for historic districts, including reasonable concealment measures, as well as provisions to protect and adhere to decorative pole designs in areas where decorative poles have been deployed to make small cells blend in with the aesthetics of the area. Looking ahead, if we can work together on small cell legislation, the possibilities for Nebraska are endless. By 2020, which is really coming up fast, Cisco projects that there will be approximately 50 billion connected devices in wireless networks, everything from cars and houses to trash cans and refrigerators, to street lights and parking meters, to water systems and buildings, to drones and tablets; you name it, they will all be connected to our networks. This will make small cells even more important to our network architecture, and it's crucial that we start deploying them now. Small cells will help us prepare our network to handle all this data traffic and empower ongoing innovation, while still delivering an effortless consumer customer experience. By bolstering these network-- capacity more efficiently using Spectrum and expanding access to faster mobile Internet speeds, we will help deliver new opportunities in areas like the Internet of Things, connected cars,

smart cities, connected health, and education. And that concludes my testimony on the small cell bill.

FRIESEN: [00:12:15] Thank you, Mr. Blythe. Any questions from the committee? Senator Hughes.

HUGHES: [00:12:19] Yes. Thank you, Mr. Blythe, for coming. So in-- you said in Iowa that there is a statewide pole attachment fee across the state.

DUSTIN BLYTHE: [00:12:30] Yep.

HUGHES: [00:12:30] Is that pretty common in other states that have done it? Or are there--

DUSTIN BLYTHE: [00:12:34] Yeah, each state is a little bit different. I know for Iowa they just use the FCC pole attachment rate which, I think, is like \$20-- it's a formula, it's like \$23. I think Minnesota's rate was a little higher; could've been like \$100. I think Colorado, or Denver's is-- it's under \$50. So most of the states that have enacted legislation, you're going to be-- you're going to be under a hundred bucks.

HUGHES: [00:12:57] So I guess my, my, my, my next question then is if you say in Nebraska, Omaha was \$500 and Lincoln was \$2,000, so the consumer is the one who ultimately pays that bill.

DUSTIN BLYTHE: [00:13:13] Yeah, I mean it's, it's a higher cost to deploy infrastructure in your state right now, yes.

HUGHES: [00:13:17] Right. So how does that cost-- how, how does AT&T apply that cost? If you

are-- if you have an Omaha address, then you're charged that? Or is it across all AT&T customers?

DUSTIN BLYTHE: [00:13:32] My, my sense is, my sense is on that, since we are where everybody has gone to unlimited data, all that gets dumped into the pot. And so for states that have enacted this legislation, they're to, they're, in effect, keeping your rates down, but states that have not enacted this legislation are actually helping keep rates up. I mean it's not, it's not by zip code, if you're-- or by state.

HUGHES: [00:13:51] Well, I guess I'm just talking about the pole attachment fee, that if, if-- would the Omaha consumers be subsidizing the Lincoln consumers because Lincoln had a higher pole fee?

DUSTIN BLYTHE: [00:14:09] I wouldn't say it, I wouldn't, I wouldn't say it like that, I guess. I don't, I mean-- well, I'll put it this way. As far as investing, we wouldn't invest in Lincoln first because they have the highest rates. We're going to go to states around you. We're going to go to Denver. We're going to Des Moines, states in Kansas, states in Missouri.

HUGHES: [00:14:28] So it would be better for statewide access if we have one rate across the state.

DUSTIN BLYTHE: [00:14:34] Correct.

HUGHES: [00:14:36] Is that a fair statement?

DUSTIN BLYTHE: [00:14:37] Yes.

HUGHES: [00:14:37] Okay. Thank you, thank you.

DUSTIN BLYTHE: [00:14:38] Yeah.

FRIESEN: [00:14:38] Thank you, Senator Hughes. Senator Geist.

GEIST: [00:14:41] I have a couple of questions. One is just for my information, and maybe everyone else knows this. Is access to right of way, that fee, and the pole attachment, is that the same fee? Are we talking the same thing, or are those two separate fees?

DUSTIN BLYTHE: [00:14:57] Well, so well, here, at least in Nebraska, you have, because you have public power-- so there'd be an attachment rate we would pay to them, and then the cities are charging us an additional right-of-way fee.

GEIST: [00:15:09] Okay.

DUSTIN BLYTHE: [00:15:09] So like in Iowa, for example, it's just that, we're just, we have an application fee and an attachment fee.

GEIST: [00:15:13] Okay.

DUSTIN BLYTHE: [00:15:14] And that's what we're trying to do with this legislation here.

GEIST: [00:15:16] Another question is I've heard that the FCC is making its ruling to give some standardized ruling across the country and, I think, next week. Do you-- can you speak to that and what you expect? I know you don't know what they're going to do exactly, but what issues they're

going to, or you expect them to, address, maybe not in dollar amounts but the issues.

DUSTIN BLYTHE: [00:15:49] Yeah, so two things on that because I have heard like, well, since the FCC is going to rule, we don't need a bill. Well, the FCC is not going to touch like planning or zoning, planning and zoning.

GEIST: [00:15:59] Right.

DUSTIN BLYTHE: [00:15:59] So we would still need legislation because we do not want small cells to go through a-- in our view a small cell does not need to go through a regular planning and zoning process like a large cell tower would go through. The only thing, I guess, I could speak to on the FCC is I do think they're going to propose a rate structure. And I think, you know, and I think-- go ahead.

GEIST: [00:16:20] And just to clarify, would that rate be the pole attachment rate?

DUSTIN BLYTHE: [00:16:27] It would either be the pole attachment rate or the right-of-way fee or, or they'll put it all together and say hey, all the application fee and attachment rate shouldn't exceed this.

GEIST: [00:16:35] Okay.

DUSTIN BLYTHE: [00:16:36] Is what-- but of course we haven't seen what that's going to be.

GEIST: [00:16:40] Okay, I know I'm asking you to speculate, but.

DUSTIN BLYTHE: [00:16:40] No, no, no; that's good. No.

FRIESEN: [00:16:41] Any other questions?

GEIST: [00:16:46] No, that was it; thank you.

FRIESEN: [00:16:47] Thank you, Senator Geist. Senator Bostelman.

BOSTELMAN: [00:16:49] Thank you, Mr. Chairman. Thanks for being here. Could you provide the committee a list of what all the states, what those fees are, just so we have it?

DUSTIN BLYTHE: [00:16:57] Oh, yeah.

BOSTELMAN: [00:16:58] Thank you.

FRIESEN: [00:17:00] Thank you, Senator Bostelman. Any other questions from the committee? What kind of changes, I guess going forward, do you see in the bill from what we had last year? Do you see any changes that you would like to see made in there?

DUSTIN BLYTHE: [00:17:18] We are going to be work, we are working currently with one of the cable providers. The Oklahoma bill was agreeable to one of the cable providers so we are going to try to tweak that language to make sure that they're good with it here. There is a new model out, but I think Nebraska is unique so I can instead, instead of starting over, I would rather start with what we kind of left off with. You had LB389, plus you had this huge committee amendment. I think we'd start there. And we're still negotiating with NPPD and OPPD right now, too. We have to call them next week.

FRIESEN: [00:17:56] Okay, I guess one question you really didn't touch on, that we're looking at in the LR here, was spoofing with telephone numbers. And so on my cell phone I-- sometimes you get a call and the caller ID brings up a local neighboring town's area code and everything, and it looks like it's coming from the city of York. So I answer the phone and it's telemarketing from Florida. What, I've had numerous constituents complain to me. It's part of the spoofing a little bit.

DUSTIN BLYTHE: [00:18:25] Sure.

FRIESEN: [00:18:25] They make it appear like it's a local phone call. So you answer the phone and you find out it's a telemarketer from somewhere else. Is there something that-- is a federal issue that needs to be addressed? Or--.

DUSTIN BLYTHE: [00:18:37] The FCC is working on it. And I know AT&T-- you know we've, we have an app that you can download to your phone, if your AT&T service, which, you know, it can block those or tries to block those and, at least, eliminates a lot of those. So I can get you more information on that, but I know the FCC is actually-- it's like in their, or in their jurisdiction, their wheelhouse, so to speak.

FRIESEN: [00:18:58] Because I can block that number but that it may be a person that I want to be able to call me because they're using real live numbers. It isn't--.

DUSTIN BLYTHE: [00:19:06] Yeah. You know I got one yesterday, so it looked like it was coming from my hometown, so.

FRIESEN: [00:19:11] Okay, okay. Any other questions? Seeing none, thank you for coming and

testifying.

DUSTIN BLYTHE: [00:19:17] Okay. You wanted me to briefly take-- Tip wanted me him briefly talk about AirGig which is that second--

FRIESEN: [00:19:22] Oh sure, yeah.

DUSTIN BLYTHE: [00:19:22] And I won't, and I won't spend more than a couple minutes on it. But real high level, we have an AT&T engineer who's been working on this for, probably, the last 15 years at our labs in New Jersey. He had filed for 200 patents and we're up to 500 patents now, and it's basically what you do. He's, he's come up with this plastic, little plastic thing. You put it at the top of a, of a electricity pole, not the high voltage but your, you know, your rural types. And he is testing it actually, shooting a broadband signal on the outside of the electromagnetic field of the, of the, of the wire. And so then this potentially could help solve that last mile issue. And so I brought the one pager. It's all right here. And I can get you more information on that, but we are currently testing that in Georgia right now. I think it's Georgia Power or something like that. So not sure if it's scalable yet but it is something that our engineers are working on, so.

FRIESEN: [00:20:36] Okay.

HUGHES: [00:20:37] Is that, does it, is it line of sight, or does it travel the wires?

DUSTIN BLYTHE: [00:20:37] No, so you basically have these plastic, these really light plastic repeaters at the top of the electric pole that shoot the signal all the way down and then, you know, say you're--

HUGHES: [00:20:46] From pole to pole? Or does it go farther than that?

DUSTIN BLYTHE: [00:20:46] From pole to pole, and then, say your farmstead was across the street, then beam it to something that you have on your house.

HUGHES: [00:20:54] Yeah, okay. Yeah, very good.

FRIESEN: [00:20:55] Any other questions? Seeing none, thank you very much for--

DUSTIN BLYTHE: [00:20:59] Thanks for your time.

FRIESEN: [00:21:00] -- coming to testify today.

RICK WOLFENDEN: [00:21:12] I'm Rick Wolfenden, and my name is spelled R-i-c-k W-o-l-f-e-n-d-e-n. And on my paper there, I wrote that I was here representing myself and, actually, I represent a lot of people in the Sandhills, in our area anyway. I'll just tell you my story. I'm a lifelong rancher in central Cherry County. I live 16 miles southwest of Valentine and 40 miles north of Mullen. It is a very rural area. My nearest neighbor by road is 13 miles away. Stargazers from around the world gather yearly in our area because of the lack of nighttime light to interfere with their sensitive telescopes. It is so rural that I started driving to grade school, eight miles away, when I was eight years old. It is so rural the county won't fix our road. Cell phones do not work where I live. Because of the remoteness of where I live, it is very important to us that our phone system works. I am a volunteer fireman, as well as the president of our rural fire district. We have ten fire trucks spread across our district that I am in charge of. It is very important that our phones work. One night I was awakened when a 70-year-three-year-old lady came banging into my house and hollered "fire." It was not a prank. She could see the fire coming but, as is very, very common in

our area, the phone system was down. By the letter of the law, I have to be dispatched by our fire chief who lives 12 air miles away. By the road it takes over an hour, driving cross-country, to his place. I believe in the Golden Rule which is God's law. So I ignored man's law and we went to help our neighbor without our chief's authorization. As a general rule, we are a very patient, resilient, hardworking people out there. Because of that we're sometimes taken advantage of, and that's why I'm here today. We need our phones and yet, year after year, our phones go unfixed. Oh yes, there's the usual, temporary patch-up jobs, but there's no cure to the problem. Our local phone men are doing the best they can with what they have. I have been in the trenches with them, using a shovel to help fix their lines. I do not find fault with our local phone men. The real problem with our phone is very well known. Our phone lines were buried in the 60s, according to the phone man. These lines not only suffer from corrosion, but from every rodent in 60 miles that has chewed on the line in the last half century. Not only do we need new cables, but we need upgraded equipment to operate the system. In listening to a retired phone man, it sounds as if we have become a dumping ground for outdated equipment from across the nation. It is because of the sparseness of our population. Isn't this part of the very definition of a rural area? Our country school is now gone. Family ranches are now a rarity because of inheritance taxes on top of real estate taxes. People out there now live further apart. According to my research, and please, my computer skills are very limited compared to most people. But according to my research, CenturyLink was given \$3 billion, with a B, in 2015 for rural broadband development. During this space of time, CenturyLink was able to lease the bragging rights to CenturyLink stadium in Omaha for millions of dollars. I know what rural looks like, and downtown Omaha is not it. Yet at the same time, CenturyLink can't justify the high cost of fixing our basic phone service. Also in my research, I found CenturyLink handed Glen F. Post, III, its CEO, over \$14.3 million in 2017. It also gave Jeff K. Storey, President and CEO, almost \$11 million in 2017, and also gave Adam [SIC] Hussain, executive vice president and chief technical officer, over \$8 million dollars that same year. These are only three examples of what I found on salary.com. If this information is correct, these salaries were paid out while

CenturyLink is receiving government assistance, paid for by tax dollars. And yet we can't get our phones fixed. We have phone lines laying on top of the ground, open phone boxes, and continual phone problems. Our phones go out very, very often. Sometimes it jingles day and night. Sometimes it has static so bad we can't hear on it. And yet we just want our phones fixed. I can go on and on, but I will close with this: on August 9 my wife Joyce and I were going to Valentine. When we were about 20 miles from home on Highway 97, we saw a Department of Roads vehicle pickup on the side of the road with its flashers going. Then I saw one of our ranch pickups stopped on the highway. So I slowed to a stop and asked my niece, who was behind the wheel, what was going on. She replied an ambulance is on the way. Then I saw my mother sitting in the passenger seat. I'm still puzzled as to what's going on. My niece said, "Didn't You see the Suburban?" No, I didn't, but there, down off the road, laid my mother's Suburban, on its top in the lake. My niece and a Road Department employee had just gotten Mom untangled from seat belts and out of the water. On the night previous to this, our phones had spent the night jingling. At 2:00 a.m., I received a call from the 911 dispatcher. They stated that my mother's phone number had been coming up on their caller ID. They wondered if they needed to send a deputy. I assured them I would find out what was going on. I drove to my mother's house and awoke her, as she had finally gotten to sleep after being awakened earlier by jingling phones. Needless to say, our phone system was crossing up and dialing 911. Our county sheriff, Rusty Osburn, who came to the accident, told me that this has happened before to other people. Am I angry? Yes, I am. My mother got life flighted to North Platte and, by the grace of God, she is still recovering after being submerged in a lake. She had fallen asleep behind the wheel, thanks to CenturyLink not being able to afford to fix our phone. I have to pay my phone bill if I want a phone. I have to pay my taxes or face consequences. Yet CenturyLink gets to live high on rural subsidies while turning a blind eye to us. Poor CenturyLink can't fix our phones out there where it's rural. Yet at the same time, I understand they're putting in new fiberoptic cables to Rosebud Casino, just nine miles from Valentine. Government subsidies make all of this possible. If they won't fix our rural phones, why do my representatives keep giving them our hard earned

dollars? I would just like CenturyLink to be held accountable. That's my piece.

FRIESEN: [00:31:14] Okay. Thank You, Mr. Wolfenden. Do I have that right?

RICK WOLFENDEN: [00:31:17] Yes, yes.

FRIESEN: [00:31:18] Are there any questions from the committee? How long a time span is there that your phones down for? Are they-- I mean and you say they're down consistently, but are they repaired rather quickly? Or--

RICK WOLFENDEN: [00:31:32] It is sporadic, and sometimes they get them up and going within a few hours and sometimes it's a week before they're up and going. At the area I live in I think there's seven wires in a bundle. And the other day Scott, our repairman, said that the mice had got through six of them and we was down to one.

FRIESEN: [00:32:10] Okay. So when you've when you had problems in the past, have you ever filed any complaints to the Public Service Commission?

RICK WOLFENDEN: [00:32:16] Yes. I'm on a first name basis with Cheryl.

FRIESEN: [00:32:19] Okay. I'm just checking all the bases, so. I, you know, and that's one thing I think we need to encourage people to do. But there has to be a way to get this fixed; I won't disagree with that, so. Any other questions from the committee? I know you had a long drive in, and I appreciate you coming.

RICK WOLFENDEN: [00:32:47] Yet--

FRIESEN: [00:32:48] I hope you're--

RICK WOLFENDEN: [00:32:48] Yet it's gone on to the point it is an emergency now; it is not convenience. And I'm not asking-- I heard the testimony earlier of the technology that's out there. I'm asking for the basic phone on the wall to work.

FRIESEN: [00:33:13] Where does your nearest cell phone coverage begin?

RICK WOLFENDEN: [00:33:17] If we get on a real, real high hill, you can get some coverage, but in the valleys there's none. And you get 20 to 30 miles from home and then different companies, phones work.

FRIESEN: [00:33:37] Okay. Well, seeing no further questions, thank you for coming in, Mr. Wolfenden.

RICK WOLFENDEN: [00:33:41] Thank you for listening to me.

FRIESEN: [00:33:46] You bet.

RICK WOLFENDEN: [00:33:46] And my story only represents two phones, and there's a lot more phones than that in my area.

FRIESEN: [00:33:53] Thank you for coming in. Welcome.

TIM SCHRAM: [00:34:10] Good afternoon, Chairman Friesen and members of the Transportation

and Telecommunications Committee. My name is, for the record is, Tim Schram, and that's spelled T-i-m S-c-h-r-a-m, commissioner for the 3rd district, representing the Public Service Commission. I appreciate the opportunity to testify today about the existing framework of statutes and regulations governing telecommunications. In recent years there's been a push, by some in the industry, to deregulate rates, terms, and conditions of telecommunication services. The commission continues to believe deregulation, as conceived by LB573, would be harmful to consumers and remove important protections currently provided in the law. The service issues you just heard from Mr. Wolfenden, the service issues faced by residents in the rural Valentine exchange underscores the importance of continued service quality requirements to ensure that all consumers, regardless of location, have access to reliable telephone service. Persistent problems in this remote, sparsely populated area include severe static on the line and outages that last for days or weeks; and this is just basic telephone service, not internet service. Even worse, damaged cable, causing phantom 911 calls, have posed serious public safety concerns in that area. Resources spent, by first responders investigating those calls, are wasted and detract from real-life emergencies. Without the current regulatory framework in place, the commission would not be able to help but, because of the authority to adopt measurable performance space requirements and universal service support, we can do something to help consumers in this area. After working with local residents and the carrier on this issue, we received an application to provide support for an infrastructure project with a plan that will address these severe problems. We are told roughly 2 million feet of fiber will be required to update service to everyone in this exchange. This isn't only a rural problem. Recently the commission was contacted by a consumer having trouble getting a carrier to respond to his requests for service in a new housing development in Papillion. Despite having two providers that serve his area, the consumer reached out, frustrated, stating that his neighbor had been waiting for over a month for a response. There are many other examples of billing issues and service issues that we respond to on a regular basis. During the last fiscal year, the commission assisted consumers in resolving over 415 consumer complaints relative to local exchange carriers, resulting in

approximately \$17,274 in savings to consumers. Not all consumer complaints result in monetary savings. Sometimes callers have a service-related issue, and not all calls seeking assistance are considered complaints. The idea that consumers can simply switch carriers, if they are unhappy, is really a fallacy. It can be a time-consuming and burdensome process in some cases and, in other cases where contracts are involved, it can be an expensive option. Notably, if LB573 were passed into law, we would have to turn our backs on consumers where we have the highest number of subscriber complaints. Nationwide over 240 million calls are placed to a 911 center each year. When that unfortunate event occurs, we want that call to go through; there are times where it doesn't. In the current environment it is likely that, when there are weaknesses with a carrier's network, it no longer just impacts one provider. We know that roughly 80 percent of 911 calls in this country are made from wireless devices. Yet those networks rely on the integrity of the underlying network facilities connected to the PSAP. In 2015, for example, when a CenturyLink cable was cut, it caused a major service outage, to hundreds of thousands of wireless customers served off the network, and lasted roughly 13 hours. Now, more than ever, the commission needs the resources to ensure network facilities are being updated, that 911 services work, and that calls to rural areas are being completed. The ability to remove barriers, where appropriate in a competitive market, exist in our statutory, statutory framework now. Nebraska Statute, Section 86-126 states the commission may limit, remove, or waive regulatory requirements for telecommunication companies when it determines that competition will serve the same purposes as public interest regulation. The commission has, in fact, declared the Omaha market to be competitive and, because of that, carriers in that market enjoy pricing flexibility with only a ten-day notice requirement for any rates. This includes approximately 258,000 households, or 68 percent of the total households, statewide, in Quest exchanges. If Grand Island and North Platte, or Fremont or Norfolk, we're also being competitive, that would already put them above the 75 percent threshold in LB573, where all exchanges-- like Big Springs, Atkinson, Harrison, Valentine, Pilger, Bridgeport-- would be deemed competitive. Finally I want to touch on an issue that I think we can all agree is a significant

problem: caller ID spoofing. Caller ID spoofing refers to a practice where the calling party uses commonly available technology to falsify the number of the telephone line from which the call is made, the name of the calling party, or both, as they appear on the called party's caller ID screen. Neighbor spoofing is when the call appears to be transmitted from the recipient's own local calling area, making it more likely the call will be answered. Caller ID spoofing violates federal law if done so with intent to defraud, cause harm, or wrongfully obtain anything of value. The FCC is actively working with carriers to curb this abuse. In May the FCC levied a \$120 million fine on a large-scale, neighbor-spoofing operation. However, enforcement is difficult, particularly when many of these calls are internet-based or coming from overseas. Because this is a problem borne out of changes in technology, industry and the FCC are investigating a technology-based solution, a call-certifying protocol among carriers to identify the call's origination and verifying process. Calls would still go through but may be flagged as unverified, similar to a spam filter. Some carriers have developed call blocking or verification apps. A handful of states have their own version of the Truth in Caller ID laws. Mississippi, Oklahoma, Louisiana, Tennessee are some examples. Because these laws are relatively new, it is difficult to determine how much success they have had in enforcement. But they at least give states tools they may need to help prosecute these offenses. Thank you again, and I am, and I am available for any questions that you may have.

FRIESEN: [00:42:16] Thank you, Mr. Schram. Are there any questions from the committee?

Senator Hughes.

HUGHES: [00:42:18] So what is the PSC-- do You have jurisdiction over Mr. Wolfenden's problem with CenturyLink?

TIM SCHRAM: [00:42:29] Yes.

HUGHES: [00:42:31] So what type of enforcement or in-- can you do to CenturyLink to improve his service?

TIM SCHRAM: [00:42:40] Well, currently CenturyLink has applied for a grant for, or for funds through the USF fund, for the deployment of new fiber or cable and in that exchange. And we're currently working with CenturyLink to get a resolution to provide better service for the residents of that exchange.

HUGHES: [00:43:03] For that exchange specifically.

TIM SCHRAM: [00:43:05] Yes.

HUGHES: [00:43:06] Okay. What kind of time frame are we looking at? Or is just in the beginning of the asking [INAUDIBLE]?

TIM SCHRAM: [00:43:13] We're just in the application process, and we-- Senator, we certainly can get you more information as to where we're at and what the, what the cost of that project is going to be.

HUGHES: [00:43:25] What, what would the ultimate time frame be, if everything clicked and fell into place?

TIM SCHRAM: [00:43:31] Going into fall, hopefully we would see activity going into next year. And I forget how many miles of fiber I stated in here but, hopefully, we'd see the beginning of construction and possibly some of the residents being, seeing results into next year. And it may, as the network gets built out, it may carry into the next year.

HUGHES: [00:44:02] So are there-- I'm assuming there are other exchanges, similar to this, that are similar [INAUDIBLE].

TIM SCHRAM: [00:44:09] To the best of my knowledge, the Valentine exchange is the one that we hear the most issues with.

HUGHES: [00:44:16] Right.

TIM SCHRAM: [00:44:16] But I do know that, you know, we do see isolated occurrences from [INAUDIBLE] we hear are there, and--

HUGHES: [00:44:25] Okay, thank you.

FRIESEN: [00:44:26] Thank you, Senator Hughes. Any other questions? Senator Bostelman.

BOSTELMAN: [00:44:29] Thank you, Mr. Chairman. I don't know if I have this term right. Is it Next Gen 911 that's supposed to be coming out?

TIM SCHRAM: [00:44:35] Yes.

HUGHES: [00:44:36] Is that going to have any impact on this? Could this have an impact to make it quicker, in the Valentine area, make it a quicker help in that area? Does that have nothing to do with [INAUDIBLE]?

TIM SCHRAM: [00:44:48] Next Generation is, and our 911 department is currently working on

that, and I want to thank the, this committee and the Legislature for approving LB993 for the, to allow the commission to move forward on that. But the EsiNets will connect the regions-- should, will be dedicated 911 lines, so our primary focus there is, is dedicated 911 trunking.

BOSTELMAN: [00:45:16] The other question I have is the \$17,274 in savings to consumers. The question goes to, in their instance, or an instance I know where, say, a telephone line gets cut. I don't have service. I'm still paying the bill but I don't have service for a week, two weeks, three weeks.

TIM SCHRAM: [00:45:33] Correct, and--

BOSTELMAN: [00:45:33] How does that, how does that-- I mean, is that something you deal with?

TIM SCHRAM: [00:45:38] Yes.

BOSTELMAN: [00:45:38] Is that something people call to get, to try to get some resolution with that, so why am I paying for something service I'm not receiving?

TIM SCHRAM: [00:45:45] Yes. And that was a good question. I was here this morning. The commission does get calls on service quality or service outages and, if it's a situation where it's clearly the carrier's negligence or response to perform, at that point we will seek from the carrier, to credit the consumer's phone bill.

BOSTELMAN: [00:46:10] Okay, thank you.

FRIESEN: [00:46:10] Thank you, Senator Bostelman. So let me, I guess I'm, I need some clarification. So if, if CenturyLink has just refused to upgrade their system until now, and now you're saying, or you're waiting for a grant to see if it'll come through to actually upgrade their system, what if a grant doesn't come through? Do they have to put up with a system like this for another 20 years?

TIM SCHRAM: [00:46:39] Well-- excuse me. We've changed our process in that in the US, in USF or broadband, to deploy broadband in rural areas. And therefore, for the price cap carriers now, as long as they submit to the commission, the cost of that-- we review those costs to see if they're eligible or not. It is virtually a reimbursement. So I use the term "grant" but, actually, with the revisions we made with NUSF and the price cap carriers-- and CenturyLink, as a price cap carrier-- that if they demonstrate to the commission that they're improving a network to deploy better telecommunications and broadband, they make the request to the commission. Obviously that's a limited fund, it's, but we're going to make every effort to help Mr. Wolfenden and the rest of those subscribers in that exchange.

FRIESEN: [00:47:45] So do you track the number of complaints that come out of each area that, if people file complaints, do you, do you keep a running total of how many complaints you get from the system? Or--

TIM SCHRAM: [00:47:57] Yes. The commission gets a monthly report from Cullen Robbins, director of our communications department. And we know, by carrier, how many complaints we're getting each month from each carrier.

FRIESEN: [00:48:08] So it sounds like these complaints have been going on for quite a while. How many dollars in fines, or how much have consumers of that region there, of that area, received

in their telephone bills? You say you help save the consumers some money. So has CenturyLink had to reimburse some money?

TIM SCHRAM: [00:48:31] I'm not sure about that exchange but, certainly, we can get you that information.

FRIESEN: [00:48:36] Because I mean, if the services, you now, and I'm hearing one side now but, I mean, without hearing CenturyLink's side, I'm saying, basically, it sounds like they don't have reliable phone service at all. And so why would they expect to be paying a bill? That's, you know, if you're going to, if we don't have cell coverage, they're depending on that phone line for service. 911 service does not exist without a phone line. And so, I mean, it sounds like this has gone on way too long and some, maybe some larger fines should have been levied a long time ago.

TIM SCHRAM: [00:49:11] Yeah, I do remember, right when I came to the commission, there was an issue with the Valentine exchange. At that time it was Quest. CenturyLink, Quest are all intertwined. But if I can remember that, the commission and that, and I'd have to go back and look at that order. But Instead of fining Quest at the time, they told him get it fixed. And I believe at that time the commission's intent was they could have fined, but they figured that the resources would be better spent dealing with the problem directly.

FRIESEN: [00:49:50] Do you have an idea of what year that was?

TIM SCHRAM: [00:49:53] I came to the commission in '07, so it would have been right about that time. But we can certainly, we can certainly look that order up. And I know they had a hearing in Valentine at that time. I was not part of that hearing.

FRIESEN: [00:50:07] Twelve years later we still dealing with it.

TIM SCHRAM: [00:50:11] Yeah. Correct, and we concur. This is an issue we, the commission, takes very seriously, and--

FRIESEN: [00:50:17] You know we've talked about, you know, the deregulation of rates versus the deregulation of the quality of service that the Public Service Commission handles. So I mean you could, you could say that we could separate those two and maybe, in some areas, the rates could be not reviewed by the Public Service Commission, but the quality of service would still stay there. So are there other tools you need, I guess, when it comes to quality of service, that would help you in resolving some of these complaints a lot quicker than 12, 13, 14 years?

TIM SCHRAM: [00:50:54] I would have to ask the commission legal staff, probably, to see what other enforcement mechanisms we may need. And we can certainly get that information to you.

FRIESEN: [00:51:07] Okay.

TIM SCHRAM: [00:51:07] But I certainly-- LB573, you heard some examples today why we feel that the regulatory framework should stay in place.

FRIESEN: [00:51:18] Well, I also think it needs to have some teeth in place if it's going to stay there.

TIM SCHRAM: [00:51:21] Okay.

FRIESEN: [00:51:21] Any other questions from the committee? Seeing none, thank you for your

testimony.

TIM SCHRAM: [00:51:28] Thank you.

FRIESEN: [00:51:39] Welcome.

MICHAEL BAGLEY: [00:51:40] Thank you, sir. Can you hear me now? Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Michael Bagley, M-i-c-h-a-e-l B-a-g-l-e-y, and I'm here to represent Verizon, a leading technology company and wireless service provider that is supportive of statewide small cells legislation being passed by the Nebraska Legislature. First of all, I would like to thank Chairman Friesen for his leadership on this issue and for his commitment to ensuring that Nebraska continues to have accessible and advanced telecommunications technology. While small cells legislation in Nebraska became controversial, it did not need to be. What the industry has been asking for, and believes is necessary, is, is pretty straightforward. We are seeking: access to the public right of way to deploy small cells; secondly, a streamlined process so that permit applications can be moved forward within a predictable time frame; and lastly, reasonable costs. We want to make sure that municipalities would cover their costs, held, hold harmless on costs, but feel it works against the interests of Nebraska citizens who would benefit from the new technology if small cells are treated as a profit center, which we believe is inappropriate. So these things of access to the right of way, a streamlined process, and reasonable costs are consistent with the small cell laws that were already passed in 20 other states. In most of these states, the legislation was not controversial and bill passed, bills passed with overwhelming bipartisan votes. The state laws that have been helpful in creating certainty and predictability, and ensuring that poll attachment rates are reasonable. States close to Nebraska that have passed statewide small cell laws include: Iowa, Colorado, Kansas, and Minnesota. In addition to action on small cells in the states, the FCC has proposed, as Senator Geist

had pointed out, a order to address small cell deployment to support the national 5G infrastructure and is scheduled to vote on the order on September 26. However, even with the FCC order, the state, statewide legislation is still needed. The FCC-proposed order does not address zoning issues, for example. Permitted use is not in the order but is included in every state bill that has passed. The concept ensures we don't have to go through a full blown zoning hearing for the deployment of every small cell. The proposed order also does not include a deemed-approved remedy. Every state bill except one, Colorado, does include a deemed-approved remedy. The FCC-proposed orders intended to establish guardrails and safe-harbor fees for states and localities. So the FCC recommends a maximum attachment rate of \$270, for example. Every state has the ability to enact lower fees and streamline and expedite deployment beyond the proposed order. We believe the state of Nebraska will be in a stronger position to receive needed 5G capital investment with the passage of statewide legislation. We want to emphasize that the proposed small cell legislation does not remove local oversight over the bidding, permitting process. Municipalities maintain the right to deny an application that does not meet objective requirements, including safety standards. Nor does the bill eliminate municipal requirements for building, electrical, and Public Way Use Permits, or allow the deployment of small cell technology without input from the municipality. We can work positively and constructively with the cities of Nebraska in the context of implementing a needed statewide law addressing the deployment of small cells. And we continue to be willing to meet with the Nebraska Municipal League [SIC] to address their concerns. And just lastly, I wanted to mention Senator Murante asked if there were high attachment rates, say for example, the \$2,000 per attachment rate that was proposed, if we pass that on to consumers. Just speaking for Verizon, we would not. We absorb all the costs for building or deploying our network. However it does become a disincentive to invest in the capital. So when we went from 3G to 4G, all our customers got was the benefits of that because we're in a very competitive industry. We want you to come to Verizon instead of our competitors, although AT&T, T-Mobile, Sprint-- those are great companies as well. But it's a very competitive landscape and so we have to make choices on where we put the capital.

We want Nebraska to be at the fore, at the front of the line, not at the back of the line, in getting the capital investment for the new technology. But we will, we will take care of that ourselves, and we don't want that passed on to consumers. The way to help consumers, I think, would directly be to help them with lowering some of the fees on their bills would be great. Thank you, Mr. Chairman.

FRIESEN: [00:56:41] Thank you, Mr. Bagley. Any questions? Senator Hilgers.

HILGERS: [00:56:44] Thank you, Mr. Chairman. Thank you, Mr. Bagley, for being here; good to see you again.

MICHAEL BAGLEY: [00:56:48] Thank you, sir.

HILGERS: [00:56:48] A couple of questions I just wanted to clarify. One was I don't, I think I followed, but could you just, could we just break out exactly what the FCC order would do and does not do? I heard you say it would set a limit, or a ceiling, on the, that the--.

MICHAEL BAGLEY: [00:56:58] That gives the [INAUDIBLE].

HILGERS: [00:57:00] Hold on one second, sir.

MICHAEL BAGLEY: [00:57:00] I'm sorry, sir.

HILGERS: [00:57:00] So I want to understand, and then I'll flip it to you. So it would set a limit of the pole attachment fee of \$275? And then from there would it do anything else? And then--

MICHAEL BAGLEY: [00:57:10] No, no. I-- well, well first let me--

HILGERS: [00:57:10] Hold on, hold on. Just-- sorry about all this. Sorry, let me finish and then I'll-- when I, I'll shut up here in a second then. \$275, and then could you just, specifically again, reference the two or three or four big items from LB389 last year that would not be touched? So go ahead.

MICHAEL BAGLEY: [00:57:26] Well, thank you, Senator Hilgers. First of all, I want to put the FCC order in context. It has not been voted on yet so I don't know what the final order will look like. And I'm not the FCC person in a company that does the expertise. What they were trying to do is they wanted to recognize that 5G technology is coming. It's going to be built on two different things, two things: one, millimeter wave spectrum, so it's going to use a different type of spectrum; and then it's going to use a different type of infrastructure as the foundation, which is small cells. Small cells, generally if they're done right, they're attachments on poles. So you don't want to use the same regulatory framework to approve them, in the permitting process, as you would with macro towers. Otherwise we're going to get this nationwide in America a lot later. We're in competition right now with China, we're in competition with Europe. We want this to be-- well, because we, we have the technology, we have the means to do it, and it's going to be game changing. I mean, you're going to be downloading a movie on your phone in four seconds. Now, you probably don't watch movies on that little thing [LAUGHTER]. But basically what they did is they gave guardrails so the big one: they, they gave guidance. They said you shouldn't go above \$270 per attachment.

HILGERS: [00:58:44] Can I-- you said, I mean guidance or, I mean guidance or sort of [INAUDIBLE].

MICHAEL BAGLEY: [00:58:44] Well, they give the direction, exactly.

HILGERS: [00:58:44] Yeah.

MICHAEL BAGLEY: [00:58:50] I'm going to call it guidance for now, but that's--

HILGERS: [00:58:52] When I hear guidance, I think of like a recommendation or--

MICHAEL BAGLEY: [00:58:55] It is a recommendation, absolutely.

HILGERS: [00:58:55] But was it--

MICHAEL BAGLEY: [00:58:59] Because, as I said in my testimony--

HILGERS: [00:58:59] Cannot exceed, right?

MICHAEL BAGLEY: [00:58:59] You're not prohibited even if they say they don't want-- they look they make it clear they don't want you to exceed \$270. But I also--

HILGERS: [00:59:05] You could go lower.

MICHAEL BAGLEY: [00:59:05] Yeah, exactly. We want you to go lower.

HILGERS: [00:59:05] No, I understand that but, I mean--

MICHAEL BAGLEY: [00:59:05] Yes.

HILGERS: [00:59:05] If it was \$500, for instance, that would be contrary to [INAUDIBLE].

MICHAEL BAGLEY: [00:59:13] Exactly.

HILGERS: [00:59:13] In other words-- because there are other federal-- federal agencies can give what are called--

MICHAEL BAGLEY: [00:59:17] So, so--

HILGERS: [00:59:17] --guidance letters that, and guidance letters actually don't have the force of law.

MICHAEL BAGLEY: [00:59:20] Exactly. Exactly, sir.

HILGERS: [00:59:20] So I want to be very precise, for the record, in that we are saying--

MICHAEL BAGLEY: [00:59:22] And so for example also, they want you to, they want to move the process through to approve these more expeditiously, but they don't put in the shot clock in that order, okay? They don't say you have to have. They don't say that, if it's not done by a certain time period, it's deemed approved, like the state laws though.

HILGERS: [00:59:39] But it does have that. I don't want to belabor the point.

MICHAEL BAGLEY: [00:59:42] Yeah.

HILGERS: [00:59:42] But I think-- I thought I understood, but I want to make sure. If the FCC

order passes, a state or locality could not set the attachment fee over \$275. So in other words, the guidance is not a guidance. It's this is what the law is and this this, if it conflicts with state or local law, then the federal law controls [INAUDIBLE]. Is that right? I mean just--

MICHAEL BAGLEY: [01:00:01] And Senator, just again I'm going to at this point be prepared to call it guidance without saying--

HILGERS: [01:00:05] Fair.

MICHAEL BAGLEY: [01:00:06] Because that's a legal judgment and, as always, we have to look at it. And frankly, we are really not wanting to speak specifically on what the, what it does and does not do until it's approved. So I just want to put that in context. But at the very least, we can say that the order makes it clearer, and so did a lot of the comments we received that very high attachment rates are an impediment to deploying the 5G technology in America.

HILGERS: [01:00:32] And the reason I ask is just because, if it is the-- but it does have the force of law. I mean that was a significant argument during LB389, which is, you know, what, what is the pole attachment cost going to be, and if that's-- I don't want to-- it's too informal of a phrase,--

MICHAEL BAGLEY: [01:00:43] Yeah.

HILGERS: [01:00:43] -- but it's the best I could think of now. If it takes it off the table, if it has the force of law, that's one thing; or least they, it can't exceed. But if it's just something that doesn't have the force of the law, that matters, right? I mean it's worth thinking, as policymakers, what-- anyway. So what, what are, what-- can you just unpack again what the, what would not be addressed as the order has been proposed, understanding [INAUDIBLE]?

MICHAEL BAGLEY: [01:01:02] Well, I cited a couple of things in my testimony that I thought were critical. The deemed-approved aspect of it, if that permit is not acted upon within a certain period of, certain time, that goes forward. They also, they don't deal with zoning requirements and all of those things. But, but if I may, Senator, respectfully, I'd love to, after the order is adopted, and after my lawyers tell me what it does legally not do, I would love to come back and meet with you and talk about it. But I'd rather avoid the: did you go testify in Nebraska that this and that is? And I'll go yes, yeah, I mean, because I can't lose more hair.

HILGERS: [01:01:36] No, I--

MICHAEL BAGLEY: [01:01:36] And I don't want to get into--

HILGERS: [01:01:40] Well, that would be very-- I, I, and that's a very fair point. I don't mean to, I understand you're here at a public hearing, you're on behalf of Verizon, you don't want to take a stance with an order that-- I, I get that.

MICHAEL BAGLEY: [01:01:48] It's still in flux. Yes, sir.

HILGERS: [01:01:49] Has there been any public discussion, public, so I'm not asking Verizon's position, of municipalities challenging the order if it is, if it is entered after it has been-- ?

MICHAEL BAGLEY: [01:01:59] I'm not aware at this point, Senator; I'm not.

HILGERS: [01:02:01] Are there any other-- I recall, I seem to recall, and you correct, maybe correct my memory, but last year when during the debate that there had been some other lawsuits,

or maybe at least one at the state level, for certain small cell bills that have been passed. One, is that, is that consistent with you, what you remember? And two, if so, can you speak to what happened with small cells?

MICHAEL BAGLEY: [01:02:21] I worked, I worked directly on small cell laws in Kansas and Utah that passed this year, and also Colorado, and those laws have not been legally challenged. But again, what we wanted to emphasize as those laws were passed, we still have to work with the cities. We still, the cities can still turn down permits so we never envisioned, in any of those state laws, that this would be, you know, inflexible, because you have to-- and the reason-- one of the benefits of state laws is they conform to the needs of that state. So our Nebraska bill may have some things in it, for example, that Iowa doesn't because it didn't come up. One of those, for example, folks said: Well how do we know it's not going to be a tower bill? So we put language in there putting height limitations to make it clear. So we really rather like the framework that we work within the particular state, make sure it reflects your state's needs. I think your state's rural community has different needs, for example, than, say, Colorado, because you guys aren't growing that thing they're growing over there that's-- I don't even want to get into that, but--

HILGERS: [01:03:22] One other point. No, I appreciate very much and, by the way, I would, I would invite, when it is--

MICHAEL BAGLEY: [01:03:26] Yeah.

HILGERS: [01:03:26] If you have counsel and anyone else who has an interest in this particular, I would certainly welcome any legal opinion--

MICHAEL BAGLEY: [01:03:33] Yeah.

HILGERS: [01:03:33] -- as to the, the force and effect of the order. The other question, the last question I think I have at the moment is, can you remind, can you remind me? The 5G technology now is not available. I think it comes online next year. When next year?

MICHAEL BAGLEY: [01:03:45] Well, it depends on the carrier, okay? So Verizon is going to start deploying 5G at the end of this year. We identified four municipalities that we've, we have to start early 5G. So Los Angeles, Sacramento, Houston, Texas, Indianapolis, we will be deploying 5G. At the end of 2018, they will be looking at other cities. In 2019 I believe that some of the other carriers have announced their timetables and they've announced other locations. So we had to do, you know, they do trials. So we did some trials in places like Denver and in 20 cities around the country. There had to be 5G standards set, and those standards are international. There are protocols, there have to be-- a spectrum made available, so a lot of things that have to precede that. But in the U.S. I think it's fair to say, towards the end of 2018, particularly 2019-2020, you'll start to see the deployment starting to manifest itself.

HILGERS: [01:04:42] Okay, thanks very much.

MICHAEL BAGLEY: [01:04:43] Thank you, sir.

FRIESEN: [01:04:44] Thank you, Senator Hilgers. Any other questions from the committee?
Seeing none--

MICHAEL BAGLEY: [01:04:50] Thank you very much.

FRIESEN: [01:04:51] Thank you for your testimony. Welcome.

DAVID YOUNG: [01:05:11] Thank you, Senator Friesen. Members of the committee, I know many of you and I have submitted testimony before you today. I don't plan on reading my testimony to you. I think you'll all appreciate that. I'd like to just share a few thoughts. My name is David Young, D-a-v-i-d Y-o-u-n-g, and I work for the city of Lincoln as the broadband infrastructure manager. There are a few things I want to reiterate. The city of Lincoln is very committed to this technology and other technologies to deploy broadband. Across our community we've made significant investments in partnering with the private sector to deploy over 4000 miles of fiber, in the last three years alone, in our community. We are very excited to partner with Verizon, AT&T, ExteNet, Mobility, anybody else who wants to deploy this technology in our community. Since we've last met, the FCC, Chairman Pai, recognizing the success we've had and Lincoln, asked Lincoln to represent the National League of Cities on the BDAC, the Broadband Deployment Advisory Commission. The FCC's BDAC charge is to create national standards and recommendations for the deployment of broadband. Thank you very much. The BDAC, several of the BDAC's recommendations, like One Touch Make Ready removing federal barriers to deployment, have been adopted, and many more are along the way, specifically a state model code which will be recommended by the BDAC out to the full FCC. There's a few things I'd like to bring to your attention about today's testimony. Rates and fees. There is a commission, a sub-work, a working group as part of the BDAC, and what, the way the Rates and Fees Commission [SIC] defines fees, what you commonly call fees, are in three categories: there are permit fees, the cost to build something; there are attachment fees, the cost to put your equipment up on somebody else's property; and then there are right-of-way occupancy fees, and they have recommendations that go along with all of those things. Permit fees unanimously are recommended to be cost based. And what is cost based? There is some, a formula that goes into that. The cost in Grand Island is probably not the same cost in Lincoln but they're pretty low, in general. Attachment rates-- there was a 1,200, 1,200 submissions were put into a study. In that rates and fees ranged from as low as

\$20 in some states to as high as \$10,000. Of the 1,200 submissions, the median range was \$1,500, and so the actual Rates and Fees Committee looked at \$750 to \$2,500 as the recurring annual attachment rate. That probably represents the middle of the road for the United States. And then occupation fees. Specifically the cost of maintaining the right of way goes into what it costs to occupy the right of way, and those should be technology neutral. And generally your percentage of gross revenue, sometimes they are expressed as a per-foot cost. If you would like to talk about any of those things in question, I'm happy to discuss that with you in detail. A full recommendation is coming out in December, from the rates and fees working group, which will explain all those things in detail. It has recently been said that attachment rates, specifically recurring rates to attach a small cell, possibly could be a barrier to deploying broadband in our state. The two companies before you, AT&T and Verizon, today have talked about that as being a potential possibility. Let me give you a few numbers here: \$45.8 billion was how much AT&T made last year before interest and taxes, their total profit \$29 billion; Verizon \$45 billion, their profit \$27 billion; the industry as a whole \$100 billion of profit. What does that equate to us? Well for these two companies alone, that's \$156 for every person that lives in the United States per-year profit. Yet the national range says \$750 to \$1,500 for your low end, \$1,500 to \$2,500 for your recurring rate. I want to challenge us. When the BDAC looked at rates and fees as the cost of construction or building out small cells, they found it to equate to less than 1 percent of the cost of building this infrastructure. What is really being asked here is to create a special category of right of ways, and that special category will have a business advantage over rural telephone companies, over fiber providers, over point-to-point wireless rural-solution providers, and create a special class just for them. We disagree with that. We think that any regulation that comes out, that is going to actually benefit our state, has to apply to all parties, and it should be uniform. Senators, I very much support this. In Lincoln we invested \$1 million about five years ago to create an electronic permitting process, where we do streamline all of our permits today. Our right-of-way construction permits go out in as little as two days, our small cell permits go out in 10 days. We're very much for this technology. The FCC's proposed rulemaking creates a

safe harbor for rates, they say \$270, not enforceable. And they also say it doesn't, it does not impact any existing agreement. All existing agreements are grandfathered in. That means cities like San Francisco, where it's \$7,500, or in New York, where it's \$10,000, those agreements don't change. So neither would Lincoln's or Omaha's agreements. We're very supportive of the initiative. What we would like to do is propose respectfully that a group, not unlike the BDAC, made up of industry, of rural, and municipal leaders, get together to look at the BDAC recommendations and look at the Rural Broadband Task Force recommendations, and work together to provide, to create a plan for the entire state that focuses on broadband in general, providing service to everybody. And we would, we are willing to be a part of that, and we want to encourage you to think about that as a potential solution for how to get past this issue. Thank you very much.

FRIESEN: [01:12:05] Thank you, Mr. Young. Any questions from the committee? Senator Hilgers.

HILGERS: [01:12:06] Thank you, Mr. Chairman. Thank you, Mr. Young, for being here; always good to see you. I want to unpack a few things that he talked about, just so I have an understanding. So you mentioned this, the BDAC study. Is that right?

DAVID YOUNG: [01:12:15] Correct.

HILGERS: [01:12:15] And that was a study that is complete or not completed?

DAVID YOUNG: [01:12:18] It's currently ongoing.

HILGERS: [01:12:19] It's currently out. And that's for small cells?

DAVID YOUNG: [01:12:22] It is for-- the charge is broadband but it's specifically looking at small cell technology and the barriers to deploying it.

HILGERS: [01:12:29] So the 1,200 submissions that you mentioned, and you referenced the median, those are costs for deployment of small cells?

DAVID YOUNG: [01:12:35] Across the nation.

HILGERS: [01:12:36] And you made a distinction between, I thought I heard you make a distinction between an attachment fee and a recurring attachment fee?

DAVID YOUNG: [01:12:42] So rates and fees, fees that are one-time cost-- to build something, you get a permit fee. To attach to somebody's property that you do not own, it's generally a recurring rate.

HILGERS: [01:12:52] But for, and as it relates to a-- fair, as it relates to attachment fees-- when I think of an attachment cost, are they all-- were you making a distinction between recurring and not occurring as it relates to attachment fees? In other words, do some municipalities have an attachment fee, not a permit, that's one time only?

DAVID YOUNG: [01:13:09] Right, there are. And that's why the FCC has done such heavy research in this area, because some municipalities may decide that they want to give away the attachment. They want to charge nothing, and they just want to encourage the deployment. Some municipalities have multiple providers in the space, and they need to balance that by charging a market rate. And the FCC's Rates and Fees Committee, that recommendation will come out and say: We don't think there is a national rate.

HILGERS: [01:13:39] So on the median, I think I heard you say the median was \$1,500, is that right, roughly? I mean--

DAVID YOUNG: [01:13:41] Yes. So \$750 To \$2,500, the median is about \$1,500.

HILGERS: [01:13:45] And was that \$1,500 a recurring attachment fee?

DAVID YOUNG: [01:13:47] Yes, recurring.

HILGERS: [01:13:50] Okay. What was the name of that study? Do you remember?

DAVID YOUNG: [01:13:51] It'll be the Rates and Fees Commission report from the BDAC. It will be presented December 6th and 7th at the next BDAC meeting.

HILGERS: [01:13:58] Thank you. I also-- so on the impact of the FCC, you've said it would be not enforceable. And I'm not asking-- I should have said this to the absent Mr. Bagley-- I'm not asking for a legal opinion, so I'm not--

DAVID YOUNG: [01:14:11] I'm not a lawyer, thank you.

HILGERS: [01:14:11] Fair. This is just a fact gathering. And no, I'm not asking for the city of Lincoln's position, legal position. The order, and understanding the order hasn't been entered; all those caveats apply. Is it your understanding, as a nonlawyer, that currently, if that order that's drafted is entered, it would not be enforceable, or it would be enforceable?

DAVID YOUNG: [01:14:31] Basically it creates guidelines, and it just says \$270 is a safe zone and, if you're in that, we think you're good. That's what the FCC says.

HILGERS: [01:14:38] But if it's a municipality, that-- I guess what I'm trying to-- I understood that it, to be a case, it would be a ceiling. But if it's, if it's a guideline, then if a municipality did \$40,000 and they entered into a contract after the FCC order had come, you're saying that they could do that?

DAVID YOUNG: [01:14:52] They could do that. And that's the specific language in the order that I read, so it does not impact any existing agreement, so it wouldn't change any agreements that are there now and future agreements. A city is not restricted to the \$270 price. It just says that's a safe harbor. And that's the word they use.

HILGERS: [01:15:09] But they could go, they could go down, but could they go for a future agreement? I'd take the past agreement point.

DAVID YOUNG: [01:15:14] Sure, sure, sure.

HILGERS: [01:15:14] There are constitutional restrictions on what we can do for contracts that are already entered.

DAVID YOUNG: [01:15:18] Yes.

HILGERS: [01:15:18] But going forward, could they go above the \$275?

DAVID YOUNG: [01:15:21] I believe yes, they could.

HILGERS: [01:15:22] They could. Okay. And I'll look and I'll, you know, that's-- and if you have someone on your team who wants to talk through the legal aspects of that, I'd, I would invite that as well. I agree, I take your point as to making a special class of right of way, a special class of right of way. But I do want to at least go back and forth a little bit with you on the, this idea that, well, these are big companies and they say they're not going to deploy, and they've got a ton of money and that's, and so they'll deploy. I mean shouldn't we, at the end of the day, take them at their word if they say-- maybe they're not saying we will never deploy 5G, but if you have a certain amount of resources you can allocate, right?

DAVID YOUNG: [01:15:56] Um-hum.

HILGERS: [01:15:56] Why would you not go to the place where there's, there are fewer burdens to an effective allocation, more profitable allocation of those resources? So I can't sit here, just based on their overall revenue, and disagree and say, it's not my place to say well, you'll, you'll do it anyway. It-- doesn't it matter if we, if Lincoln especially--and I'm a Lincoln senator, so I'm thinking here in Lincoln-- if we're thinking about growing this community and whether we get 5G in 2019 or 2022?

DAVID YOUNG: [01:16:23] So I agree with your premise. And the challenge that I have is that, in return for what? If we are going to offer a special class of right of way user, if we are going to offer a submarket rate for our asset, what are we getting in return? Are we going to get a commitment to deploy 4,000 small cells across the state in three years? Then yes, I'm interested. If we're not getting that, if we're not getting a commitment-- an actual, verifiable, measurable commitment-- with a time frame to go with it that's going to help this gentleman back here who have problems with his, his phone service, then we shouldn't do it, because we've seen where we've been promised to before

and not delivered on the promises. And I think that that's the challenge we have. If there's something we're going to get out of the deal for trading for something of equal value, yes, let's trade. But let's get that commitment.

HILGERS: [01:17:18] Okay, thank you. I, maybe one other question, if that's all right, Mr. Chairman?

FRIESEN: [01:17:25] Sure.

HILGERS: [01:17:25] So I recall-- and correct me, it's been a little while since we, when you testified on LB389, because actually, I think that was in 2000 and-- was that 2016?

FRIESEN: [01:17:33] Seventeen.

HILGERS: [01:17:35] At the time-- '17? It would have made--

GEIST: [01:17:35] You weren't here.

HILGERS: [01:17:35] How long-- I have a newborn at home, so my days and numbers are-- how long can I use that as an excuse? Anyway-- 2017. I recall, I seem to recall that we had a conversation about how many small cells it would take to sort of deploy 5G in Lincoln, a city of the size of Lincoln. If I remember right, it was either around 100 or around 400; I can't remember. But it's certainly in the hundreds. Is that, is that fair?

DAVID YOUNG: [01:18:01] It is, yes. And looking at-- so nationally they say that-- the national statistics are 800,000 to a million small cells nationally. That's full coverage; that's everywhere. In

Lincoln we project 100 in the next three years. We have about 24 of them that are being completed right now. They were tested last weekend; they're in the game. And 400 maximum coverage, and that's everywhere in the city.

HILGERS: [01:18:30] And that, is that 400 per provider, or is that 400?

DAVID YOUNG: [01:18:33] No, that's total, all providers.

HILGERS: [01:18:35] Total, all providers.

DAVID YOUNG: [01:18:35] All providers.

HILGERS: [01:18:36] So can you, can you qualitatively describe, sort of, the speed at which we have entered in, Lincoln has entered into contracts for these small cells?

DAVID YOUNG: [01:18:45] Sure.

HILGERS: [01:18:45] And the reason I ask is because in 2017, when we had the hearing, it didn't seem like we were that much further behind where we are now, or where Lincoln is now at 23. So has it slowed down? I mean when you, especially when you read about, sort of, the discussion of the costs in Lincoln, I mean, it's a fair question, I think. Since I'm asking it, I guess I can say that.

DAVID YOUNG: [01:19:07] What?

HILGERS: [01:19:07] Has it slowed down? Has it, has it, have you seen an impact of the rate of deployment-- or not rate-- rate of entering into these contracts?

DAVID YOUNG: [01:19:15] So the challenge of this technology is the promise versus the reality. The promise is, you know, ultrafast 5G can give you almost gigabit speeds of download over wireless, right? That's the promise. The reality-- you have to build something. That means electrical work. That means taking poles down and putting them up, putting equipment in, engineering. So In 2016 we signed agreements with three companies, Verizon being the biggest company we signed the agreement with. They submitted to us 28 permits. We approved 25 of them immediately and a couple of them that were around the Capitol, we started moving them. And then they've been under construction for the last year and a half. And literally, last weekend at the football game, they turned up there first for testing. So the other two companies are speculative builders, Mobility and ExteNet, and we're looking at them. They've got five or six permits between the two of them of the places that they are building right now. I think the challenge is, in working with our local engineering firms, we know that. 50 additional small cell sites have been designed and are being placed on hold, waiting on the outcome of the state legislation.

HILGERS: [01:20:26] Waiting on, what might be introduced next year?

DAVID YOUNG: [01:20:29] The outcome of this. Yes, yes.

HILGERS: [01:20:32] Okay. Thank You, thank you.

FRIESEN: [01:20:33] Thank you, Senator Hilgers. Senator Bostelman.

BOSTELMAN: [01:20:33] Thank you, Mr. Chairman. Can you, for my better understanding-- we're talking about attachments on poles and that, so-- or maybe, so there's-- we're kind of creating a new class for small cells. So what are the, what's the existing class? Why is it, if it's a \$10,000

attachment-- whatever, whatever that might be-- what is the technology? What is it that's being attached that's so much different than what's been attached now? And is it numberwise? Can you explain that to me?

DAVID YOUNG: [01:21:02] So Senator, I will talk your ear off about this, as you well know, sad to be saying this. And the differences are generally the public right of way is purchased, curb to curb, for a road, and that's for the provisioning, historically, of water, sewer, and storm. Additional space is purchased behind the curb, generally anywhere from 10 to 25 feet, sometimes much more in a rural application. And that's for the provisioning of private services. In Nebraska we're very fortunate we have public power, so that's included. So historical classes of users for right of way: electric, natural gas, the wet utilities-- water, sewer, stormwater, and communications. So those are the historic users of right of way. Generally between them all, electric companies pay the same price, natural gas companies pay the same price, communication providers pay the same price. The difference is they are putting all of their own infrastructure in, infrastructure that they own. So if I have an electric utility and I'm attaching an electric utility, another electric utility wire to it or communication wire, those are generally tariffed rates, and they are commensurate to the amount of attachment you're putting on there, the load you're bearing on the pole, very small amount of wire. What is being asked now is for a certain class of user, a wireless company-- specifically the two companies today we're discussing are asking for special status, that they can attach to any public asset in the right of way for-- a tariffed rate is what they're asking for, for a low-cost rate. Generally if a private company comes to the public and says I want to attach to your building, I want to attach to your pole, you pay the market rate, calculate what it is, everybody gets charged the same rate. That's the difference. And what they're, what they're proposing to attach is not a wire. In the legislative examples that we're talking about today, they're proposing to attach 28 cubic feet to a pole for the equipment and 3 foot for the antenna. That's challenging because there's no weight restrictions on that, there's no standard for what the, what happens if the pole falls down--who pays

for it. There's a lot of challenges with that, and that's why we asked specifically for more engineering standards to be a part of the legislation effort, but that's really hard to do, or to shrink the size of what's allowed on the poles. So I'm happy to talk with you about this. I'm sorry about the--.

BOSTELMAN: [01:23:34] We can later, probably as well, but I guess my, you know, I'm trying to, trying to ask my question again, and I appreciate what you just said because that, that helps, as well. But there's not attachments other than what the utilities also-- I mean there's not a similar type--not necessarily similar-- there's not a satellite dish, there's not a whatever, some type of-- I don't know what that attachment would be-- there's not already attachments out there that's in that higher range where there's only ten of them in town. So then there's a higher range, there's a higher price for that attachment since there's only ten of them. Now you're doing a whole lot, you know, a larger number of them so now they're looking at more costs. Was there something already out there that's being attached, that-- and that there's only ten of them in the city?

DAVID YOUNG: [01:24:17] So historically, yes. So if a church wants to put in fiber underneath the street to connect two buildings, we have a process for that. It's a per-linear-foot charge to occupy the right of way by, based on the cubic volume of whatever they're putting in. A natural gas pipeline wants to go in and build across your right of way. There's a calculated cost to that. With small cells and associated wireless technology, historically those attachments have gone to the private sector. They've gone to tower operators, they've gone to billboard operators, they've gone to private buildings-- owners. And that's why, if you look around downtown Lincoln, on every tall building there is a wireless attachment. And so those are all market rates; they're not tariffed. And so if-- and this was one of the cruxes of the argument, argument we were making last year-- is if the state Legislature asks municipalities to create a submarket rate, we will, in a sense, be putting local government in competition with private business. Those private building owners, those private cell

tower owners, they are the ones currently that AT&T and Verizon work with to deploy this technology. And we think that we should be treated equally under this regime. The public should be treated equally to the private sector. That way we don't create an imbalance. We don't create one class of user that gets subsidized use of the public right of way at the public's expense, especially without a commitment in return, to build the entire state or however we do that.

BOSTELMAN: [01:25:53] Thank you. I think the, the, my caveat to building out the entire state is you make sure you get to the, to the Mr. Wolfendens and you get to my house, because we're rural. And I know they're not there yet, and I don't know if you ever will get there, so. But thank you for your comments; I appreciate it.

DAVID YOUNG: [01:26:09] Well, I appreciate that, and I think that that's the discussion that we're interested in having with a larger group of stakeholders.

BOSTELMAN: [01:26:12] Thank you.

FRIESEN: [01:26:12] Thank you, Senator Bostelman. So a couple of things that you talked about, I have a few questions. So you talked a little bit about the pole attachment. So currently do you have cable companies that have pole attachments with the city of Lincoln?

DAVID YOUNG: [01:26:30] So let me clarify. The city is an owner of LES, but LES operates as a separate entity. LES and the cable company do have attachment rates, is my understanding.

FRIESEN: [01:26:40] Do you know what those charges are?

DAVID YOUNG: [01:26:42] I don't know what those are.

FRIESEN: [01:26:44] Can you find that out?

DAVID YOUNG: [01:26:44] Yes, sir, I can, and I will get that out.

FRIESEN: [01:26:46] Appreciate that. Okay. So when you talked a little bit about your, the cost of putting in infrastructure, you, your rates were based on the cost of access. Is that correct? You mentioned that the city of Grand Island's cost of putting in infrastructure could be less than the city of Lincoln. It's a larger city, more infrastructure, is that how you meant it or what?

DAVID YOUNG: [01:27:10] Population density. The higher the population density, the less the cost per application generally, because you have more people contributing to the cost of right of way. So when you're spreading the cost out, it's the same problem we have with a lot of issues in Nebraska. It's cheaper to deploy in Omaha than it is in Lincoln because Lincoln has more people, more density. So when they're building a mile of fiber or putting up an attachment, they're serving more people. So the cost per person served is lower, and then you have more resources to spread out permits across. So you've got a department of ten and you're processing 100 permits versus you still have to have five or six people to process a permit to do all the engineering review. But now you're only doing one at a time, so the cost per permit goes way up.

FRIESEN: [01:27:56] Again, the cost for deployment in Lincoln, should that cost more or less than a smaller town?

DAVID YOUNG: [01:28:01] I think if you are looking at a cost basis only, that It would cost more to deploy in Lincoln than it would in a smaller town, for a lot of reasons--

FRIESEN: [01:28:12] Okay. That's, that's--

DAVID YOUNG: [01:28:12] -- engineering reasons and other.

FRIESEN: [01:28:14] All right. So Omaha is, I think, charging \$500 to \$600 per pole attachment. Is that their cost of access to the right of way? Or do they look different?

DAVID YOUNG: [01:28:23] I don't know that specifically, and I'm I believe somebody from Omaha is here and, if not, I can find that information out for you. I know we are working together on this.

FRIESEN: [01:28:30] So how did you reach the agreement currently? I think you're charging \$1,995, and there was some testimony last time that you-- how did you reach that price conclusion?

DAVID YOUNG: [01:28:46] Unfortunately for all of us, I have an engineering background. So the coverage model for a macro tower roughly a five-mile radius, for a small cell there roughly three-quarters of a mile. There are a ton of variables that go into that math: elevation, density of buildings, trees, lots of things. But just taking those two numbers-- five-mile radius for a macro tower and three-quarters of a mile radius for a small cell-- to recreate the coverage model for a macro tower would take between 12 and 16 small cells. So what we did is surveyed macro tower owners in Lincoln. How much do you currently charge for your attachment? And then we divided it by the equal number of small cells to recreate that attachment rate, and we came up with \$2,400. We were working specifically with Verizon and, at the time, Verizon told us: under \$2,000, we're in. No problem. Immediately we signed agreements with ExteNet-- or excuse me, with Mobility-- within a month, and ExteNet within another 120 days, at that rate, because they understood the process and the formula that we used was based on existing attachment rates.

FRIESEN: [01:30:04] So I guess I'm a little confused because I read an article that you were quoted in. It's an eastern magazine-- I don't know if it was the New York Times or what, but you started with a cost that was a lot higher yet than \$1,995, and you finally negotiated down to \$1,995.

DAVID YOUNG: [01:30:19] Um-hum, yeah.

FRIESEN: [01:30:19] But yet you say you engineered the cost end of [INAUDIBLE]. Which was it?

DAVID YOUNG: [01:30:24] We engineered the formula. It came up at \$2,400, but we negotiated down to \$2,000 because we wanted the technology here.

FRIESEN: [01:30:29] But it's-- the article stated you started around \$6,000 or \$8,000.

DAVID YOUNG: [01:30:34] That is not correct.

FRIESEN: [01:30:35] I'll find the article; let's find it. Do you--

DAVID YOUNG: [01:30:37] Have any of us ever been misquoted in the press?

FRIESEN: [01:30:40] Do you hold a, do you hold a license for the manufacture of a pole for small cell development?

DAVID YOUNG: [01:30:47] No, sir.

FRIESEN: [01:30:47] Does that, does the city of Lincoln hold one?

DAVID YOUNG: [01:30:48] No, sir.

FRIESEN: [01:30:49] Do you market any poles that are made specifically for small cells?

DAVID YOUNG: [01:30:54] No, sir.

FRIESEN: [01:30:57] Okay.

DAVID YOUNG: [01:30:58] Specifically, just to address that issue, because I've heard some of the same rumors-- I thought was fascinating. We worked with Valmont Industries out of, not Eagle, Nebraska, but the big manufacturing plant right out of Omaha,--

FRIESEN: [01:31:10] Valley?

DAVID YOUNG: [01:31:10] -- and Verizon to jointly design a small cell pole standard. And then if you choose to use that pole in Lincoln-- Valmont made 85 percent of the streetlight poles we have now-- then we have an engineering standard. You're not required to use Valmont; you're just required to submit a pole of the same standard and certify that it's the same standard.

FRIESEN: [01:31:29] The article led me to believe something quite different, so. You mentioned earlier, too, that you looked at these companies and they had profit margins so big. Do we, is that how we do business in Nebraska? We look at the-- is there a limit to how much a company should make in profit, and we, we set fees accordingly to how they should do business here?

DAVID YOUNG: [01:31:47] Senator, we set fees in Lincoln based on the market rate of other corresponding assets. We did not look at their balance sheets in any way. I found it ironic that we were saying, that some testimony was saying that an attachment rate that represents 1 percent of the cost of construction is being the barrier to deployment in rural Nebraska. That's why I brought it up.

FRIESEN: [01:32:10] Okay. I was just curious as we look at numbers, and if we set our fees according to their profit margin, then that's more like an income tax.

DAVID YOUNG: [01:32:20] And I would not propose that.

FRIESEN: [01:32:21] To me, I am, I guess I don't like the hidden fees that are out there, and we should be more transparent in how we, how we operate our cities. So I think that's probably the only question I have. Senator Bostelman and then Senator Briese.

BOSTELMAN: [01:32:36] Okay. I just want to follow up with that. Could you go back over what you just said about the light poles? Because I know last year, when I went to a broadband conference out in San Francisco, there was a company there that were making them. And they're available because the small cell is inside, included inside of the light poles and that can-- I just didn't catch what you were talking about there with Valmont and that.

DAVID YOUNG: [01:32:58] My response to the esteemed senator was that I did not own any patents or licenses and nor did the city of Lincoln. I wish we did. That would be-- I think they're selling a lot of these things, but there are a plethora of-- the term, industry term of art is smart pole-- poles that are made to either hide small cells or to deploy them in a way that's been pre-engineered so they can be placed. What we did in Lincoln was work with Valmont, who supplies the largest number of the poles we have now to just create a low-cost replacement model so that we could

replace one pole for another.

BOSTELMAN: [01:33:32] Right. So is that pole considered a, a, an attachment pole? How is that, how is that then different than if you just had a light pole and you put a small cell attachment to it? Is it, is this viewed the same? Is it viewed differently?

DAVID YOUNG: [01:33:48] Aesthetically it looks the same. And if--

BOSTELMAN: [01:33:51] Well, I'm sorry, I'm sorry. Let me-- sorry, I'm going to interrupt [INAUDIBLE]. Is that as far as the charge, the fee, because we have an attachment fee when we attach a small cell device to it to a light pole? But if we have a light pole that's made with that included-- the smart pole-- that technology is included within the pole, is that same fee being charged or not? Or is that in negotiation? Like what, how does that, how does that work? Do you know?

DAVID YOUNG: [01:34:16] I do. To clarify, what we do is, in Lincoln some poles are older than other poles.

BOSTELMAN: [01:34:21] Right.

DAVID YOUNG: [01:34:22] And then, yearly, you do an engineering study to determine whether the weight of that particular pole will handle the proposed attachment.

BOSTELMAN: [01:34:28] Um-hum.

DAVID YOUNG: [01:34:28] What we offer the carriers is, if they're just going to replace the pole,

in the existing pole location, with a pole it has been pre-engineered--

BOSTELMAN: [01:34:36] Um-hum.

DAVID YOUNG: [01:34:37] -- then it's the, it's the same price and you just get to forgo the engineering step.

BOSTELMAN: [01:34:41] So are they charged an attachment fee for that pole?

DAVID YOUNG: [01:34:45] Yes, they are.

BOSTELMAN: [01:34:46] They would, they would be still charged an attachment fee.

DAVID YOUNG: [01:34:48] Correct.

BOSTELMAN: [01:34:48] And then anybody else that would connect to that, because multiple users would be connected to that smart one.

DAVID YOUNG: [01:34:53] The, the streetlight poles that we have engineered are for one carrier, and the carriers generally want to attach one carrier per pole.

BOSTELMAN: [01:35:01] Okay, all right. Thank you.

DAVID YOUNG: [01:35:02] Yes, sir..

FRIESEN: [01:35:04] Thank you, Senator Bostelman. Senator Briese.

BRIESE: [01:35:04] Thank you, Chairman Friesen. Thank you, Mr. Young, for being here. I heard it suggested earlier that the small cell attachment location shouldn't be considered a profit center. To the extent that this is, say for example, the city of Lincoln has a "profit" on these locations, those extra dollars, where do they go?

DAVID YOUNG: [01:35:28] I think the challenge-- and then we all know this well-- is that the demands of maintaining infrastructure versus the tax rate that we have, there are no profits in government. They're also, they're funded into police, into 911 services and to fire. Specifically the funds from attachments go into right of way maintenance and those associated general fund items.

BRIESE: [01:35:52] Okay. And so my point is you can make the argument, then, that those extra dollars benefit the rate-paying, tax-paying citizens of Lincoln.

DAVID YOUNG: [01:36:01] I, they go into the general fund.

BRIESE: [01:36:04] Okay.

DAVID YOUNG: [01:36:05] And the general fund is largely Is spent on police, fire, and 911 services for our-- and street maintenance.

BRIESE: [01:36:09] Okay.

DAVID YOUNG: [01:36:09] That's exactly what they go into.

FRIESEN: [01:36:11] Thank you, Senator Briese. Any other questions from the committee?

Seeing none, thank you for your testimony.

DAVID YOUNG: [01:36:17] You know, Senators, I love coming to see you guys. I would come and hang out more if you invited me. Thank you very much for the opportunity.

FRIESEN: [01:36:35] Welcome.

KRISTEN GOTTSCHALK: [01:36:35] Senator Friesen, members of the Transportation and Telecommunications Committee, for the record my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association, representing 33 small rural electric providers across the state of Nebraska. I wanted to thank you for this hearing and this opportunity to speak again. As we went through the ins and outs of what was in LB389 during the legislative session, it was good to know that, you know, we could work with the various stakeholders to understand that rural electric providers are somewhat different in their application of these types of technologies. And in fact there was drafted an amendment that would have excluded rural electric providers from that, and I should say that's consistent with every other bill that has passed in all of those other states. Every state has exempted what is essentially rural electric cooperatives. In Nebraska we-- the home of George Norris-- we adopted a different model. We had to come up with a different type of exemption to include both co-ops and rural public power districts, and I do hope that as, or if, this legislation goes forward, that does continue. I would be remiss if I didn't point out, as well, that in many of those states, if not most of them, there are exemptions for all electric utilities from the provisions of the acts. And that's important to note as we move forward, as well. That's not the case with the exemption for Nebraska since it would only apply to rural electric providers. The real electric members feel strongly that broadband development data and the ability to communicate through wireless services is critical to the economic viability of rural areas. And we've made a commitment, and we will we

will stand by this to continue to work with the stakeholders to find ways to expand those types of technologies in the state of Nebraska. In fact my members are working locally now to expand the use of broadband as we began to expand our use of fiber to communicate with our substations. And one last thing that I did want to mention is that, under the Communications Act-- Section 224 of the Communications Act which would be referred to as the Pole Attachment Act-- all public power utilities are explicitly, explicitly exempt from the provisions of the FCC pole attachment rates and regulation. And this was done primarily because state and local regulations are designed to meet local need and meet the actual cost-based needs for those utilities. It's some concern, as the FCC moves forward with their small cell order, can the order of the FCC supersede the law that's, that's currently in place? At that point, at that, to that issue I don't really have an answer. But I think that's important to note that, as these things continue to move, there isn't clarity and there isn't uniformity across the state. So with that, if you have any questions, I'd be happy to answer them. And again, thank you for your interest in rural Nebraska.

FRIESEN: [01:40:12] Thank you for your testimony. Senator Geist.

GEIST: [01:40:14] Thank you. Just a clarification, I don't know if my brain was drifting or what. But if you would just restate what you said about other states. Did you say they're, they all exempt electric power?

KRISTEN GOTTSCHALK: [01:40:31] The states that have passed small cell legislation, the 20 states that were referenced by many people before me, all of them exempt rural electric providers, rural electric cooperatives. They are all exempted. Many of those states also exempt all electric utilities.

GEIST: [01:40:51] Okay, so many do.

KRISTEN GOTTSCHALK: [01:40:51] Many do.

GEIST: [01:40:52] But they don't all.

KRISTEN GOTTSCHALK: [01:40:52] Not all.

GEIST: [01:40:57] Okay, that's what I wanted to know.

KRISTEN GOTTSCHALK: [01:40:57] They all exempt rural electric providers.

GEIST: [01:40:57] Okay, thank you.

FRIESEN: [01:40:57] Thank you, Senator Geist. Any other questions from the committee? Seeing none, thank you for your testimony. Welcome.

KARLA RUIPER: [01:41:20] Thank you very much. Good afternoon, Senator Friesen and members of the Transportation and Telecommunications Committee. I appreciate the opportunity to speak this afternoon, provide some testimony concerning telecommunications and broadband small cell technology in the state of Nebraska. My name is Karla Ripiper; that's K-a-r-l-a R-u-p-i-p-e-r. I'm the city attorney for the city of Papillion, and I'm here today representing United Cities of Sarpy County, which include Bellevue, La Vista, Springfield, Gretna, as well as Papillion. Both as private citizens, and as servants of the public and elected officials of the United Cities, we enjoy and look forward to the continued advancement of small cell technology, and we embrace it both for ourselves and for our residents. However, the United Cities feel that such advancement cannot, and should not, be unbridled and without municipal oversight of location, design, installation, elements

of small cell nodes, and related facilities within our communities. We feel it's the duty of the cities, as well as the state, to continue to protect the safety and welfare of the public that we serve. In welcoming those tech, the new technology, we do welcome the opportunity to be partners, both with the Legislature as well as the carriers, in providing what we consider to be our win-win solutions for efficient accommodation of these new technologies. During the last two legislative sessions, the United Cities, as well as many of the cities across the state of Nebraska, they took a very keen interest in LB389, the Small Wireless Facilities Act and the proposed amendments to that bill. Papillion, in particular, had, just prior to the offering of that legislation, had experienced a wave of applications for the construction of three huge, 11-story communication towers, telecommunication towers that were proposed to be installed within our cities right of way in the most illogical locations. One tower was proposed to be placed in the narrow right of way between the sidewalk and the curb on Washington Street, right across from City Hall and our city library, and at the doorsteps of our Papillion quaint and, but bustling, historical downtown. And the diameter of the tower alone would have exceeded the width of the right of way, and there was no logical location for the related facilities and where they would be placed. The size and aesthetics of that tower and the related facilities would have been in sharp contrast to the historical nature of the area and, arguably, would have destroyed the city's significant investment, as well as that of the downtown business owners, to revitalize and promote the economic development of that area. Clearly in that case, the applicant had no regard or, frankly, no clue of the historical significance and investment of the city and the residents with regard to the proposal for the location for that tower. The second and third towers that were to be, that were proposed would have been placed in residential areas-- one next to a church, the other next to an elementary school-- again to be located within the narrow right of way between the sidewalk and the curb. In each case it appeared that the applicant simply dropped a pin on a map, first proposed towers with no regard to the character of the immediately-surrounding area. Now all of that was about three years ago, and that experience was an eye opener for the city of the Papillion of what may be to come. It led our city to amend our

city code, to create a process for reviewing applications for wireless communication towers and future technology. I called, I realize that the topic here today is about small cell, but I called those tower applications to your attention simply to illustrate that, but for the city of Papillion's right to reasonably oversee and manage its right of way, the construction of those three towers likely would have happened, as proposed in 2016, and would have been disastrous to our downtown and our residential areas. The cities do play a critical role in providing essential oversight management of telecommunication installments within our jurisdictions. Those, such oversight is expected and, I think, demanded by our, by the residents that we serve. Our job is to protect basic health, safety, and welfare of the public, which does include economic development and aesthetics of our communities. I also think our job is to prepare for new advancements that will benefit our communities. Now with the advancement of 5G small cell on our doorsteps, the city of Papillion is beginning to ramp up in order to accommodate it, and we will be meeting with small cell carriers that are proposing to meet with us in order to bring 5G technology to our community. Furthermore, the United Cities are currently working on a uniform, master right-of-way access agreement with one of those carriers for the installation of ground fiber, which will be essential to the interconnectivity of 5G deployment. And so I would repeat that the cities do welcome, and we do embrace, the advancement of 5G and future technologies. Again, but in doing so we seek to partner, both with the Legislature as well as the carriers, in ways that we can accommodate those new technologies in the near future. And I was glad to hear, from some of the prior testimony, that the new legislation-- or not legislation, sorry-- the new FCC ruling, if adopted, will still require working with the cities. And so I simply want to impress upon all of you how very important that continues to be. So with that, I thank you for your time and attention. I am willing to answer any questions you may have.

FRIESEN: [01:48:22] Thank you for your testimony. I guess I just have a couple questions to start off with here. Have you read the bill?

KARLA RUIPER: [01:48:31] I have a copy of the bill. The bill was issued, I understand-- on September 9, I believe it was. Are you, are you-- I'm sorry, are you talking--

FRIESEN: [01:48:39] I, you know, the small cell bill.

KARLA RUIPER: [01:48:40] Oh, the small cell bill-- yes, I have.

FRIESEN: [01:48:42] So in there it would never allow a tower that you were talking about, correct?

KARLA RUIPER: [01:48:46] And that is correct. At-- one of the earlier versions would have, but you're, you're correct. I believe the final would have eliminated the towers, and so I'm not--

FRIESEN: [01:48:55] I know, and that was very, very strict, you know, and I--

KARLA RUIPER: [01:48:55] -- suggesting that that is still in the bill.

FRIESEN: [01:48:55] Okay. And it still--

KARLA RUIPER: [01:48:55] I realize that that has been pulled out.

FRIESEN: [01:48:56] It still allowed the cities to deny a location, and so it still left you in control, didn't it not?

KARLA RUIPER: [01:49:09] That is, that is correct.

FRIESEN: [01:49:10] So you could have--

KARLA RUIPIPER: [01:49:10] And the way it was, it was amended at a later time.

FRIESEN: [01:49:12] Yeah, our final, the final draft.

KARLA RUIPIPER: [01:49:14] That is correct, the final, the final version of that.

FRIESEN: [01:49:16] So the cities have full control over the permit application process, yeah.

They can deny--

KARLA RUIPIPER: [01:49:19] For-- are you just thinking of cell, of the macro towers?

FRIESEN: [01:49:22] Small cell, small cell. Macro towers are not discussed at this at all. In the context of a small cell, there'll be no macro towers.

KARLA RUIPIPER: [01:49:32] I understand that; um-hum.

FRIESEN: [01:49:32] Okay. So the cities, you realize they do have control over the application process?

KARLA RUIPIPER: [01:49:38] Yes, we do.

FRIESEN: [01:49:39] Okay.

KARLA RUIPER: [01:49:41] And I'm simply impressing upon we would like to continue having that level of control.

FRIESEN: [01:49:47] You know, there was just a lot of misinformation passed around last year, and I just wanted to make sure that we clarified it because it still did leave a lot of local control to each municipality, to decide how that plan would be laid out. It just sped up the process, I guess.

KARLA RUIPER: [01:50:03] It did leave a lot of control with the, with the cities, however, there were a number of provisions,, as written in the last draft, that I know many cities had concern about, and so--

FRIESEN: [01:50:15] Okay. Are there any questions from the committee? Seeing none, thank you for your testimony.

KARLA RUIPER: [01:50:21] Thank you for your time.

JUSTIN BRADY: [01:50:39] Chairman Friesen and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Cable Communications Association. And I have an extensive handout that I won't go through. I'll just make a few comments on a couple of the topics and try to address some questions that at least were raised so far. When it comes to small cell, the first thing I'd say is the FCC. I mean you've heard about the FCC order and they've talked. And you heard from the wireless people; we don't know what that order is going to say. They vote on it September 26. So it's not like you'd have to wait a long time to figure out what the final version of this order is going to say. I think, you know, when the representative from AT&T talked about what he would like to see in a bill in Nebraska, it said: We'd like to have access to that right of way; we'd like to have reasonable costs; we'd like to

have a streamlined siting process; and wants what he referred to as the shot clock, which is a reasonable time frame. As I read the 100 pages of the order and all the comments and the FCC's response, those four things were addressed. Now they may not be addressed to specifically help Verizon's business model was, but at least they are addressed, one way or the other, in the order. To your question, Senator Hilgers, you know, on the amount. As I understand it, it says that cities can charge fair and reasonable fees so long as they're, you know, equal, no matter who's showing up on their doorstep. Then they go on and say if you charge \$270 or less, it's presumed to be fair and reasonable. They could charge \$40,000; they're just going to have to end up in court to prove that it was fair and reasonable. And they do put a shot clock. They, there was a shot clock of 60 days or 90 days depending-- I won't get in-- I didn't understand all the technical stuff, but 60 days if it was going onto a current attachment, roughly 90 if you were putting in a new one. So I mean they, the FCC is addressing some of these issues, and I think it was the cellular companies, as I understand, that went to the FCC and said hey, we've got this patchwork system. We need some standard across the country. I think if I were in your shoes I'd sit there and say well let's wait and see what they are going to give us for a standard across the country, and then see what, if anything, may need-- gaps need to be filled in after that. But that's, I mean, so that's one thing I think I'd look at and watch what the FCC does. Two, you know, wireless, I think, did a very good job when they first came out with this bill. They made it sound like they were the only ones that could provide wireless high-speed internet. And that's just-- that, like I said, they set the table. They were able to put out there what they said were the facts. Cable companies do it. Cable companies provide Wi-Fi hotspots. They're working on trials with fixed high speed wireless. They're working on something called the strand mounted wireless devices. All those devices would be treated differently if you passed just "a small cell bill." You then would be picking winners and losers on legislation on we're going to reward this technology over this technology. And I think, when it comes from the Cable Association, they're, they support having less regulation and less fees. But I think they'd want to say if we're going to do a process, let's let every company, let's not pick winners and losers based on the

legislation, when it comes to that. As far as the issue on deregulation, again the Cable Association supports, obviously, less regulation and less fees. They just have, kind of, four guidelines they'd like to, you know, and they've been working with the other parties interested in deregulation and, and they've always said, you know, they'd like to still have the PSC have regulation of wholesale. They would like to still have the PSC have regulation of interconnection rights and obligations and, if an area is deemed competitive, they don't think there should be NUSF funding going to that area because if it's competitive then it, the subsidizing, could be better used elsewhere. And with that, I'll try to answer any questions.

FRIESEN: [01:54:44] Thank you, Mr. Brady. Any questions from the committee? Senator Hilgers.

HILGERS: [01:54:47] Thank you, Mr. Chairman. Thank you, Mr. Brady, for your testimony. I appreciate it. That, that's where the, the safe harbor-- the safe harbor, as to what is fair, means equals.

JUSTIN BRADY: [01:54:56] Right.

HILGERS: [01:54:56] There is a ceiling, but the ceiling is not \$275; it's what's fair and-- it has to be fair and reasonable.

JUSTIN BRADY: [01:54:58] Correct.

HILGERS: [01:54:58] Do you know anything? And you may not. The first I heard of it was the study that Mr. Young referred to. Do you, have you heard of that study that he referenced in terms of the rate study for small cell attachments?

JUSTIN BRADY: [01:55:11] Only in the media at about a week ago when he referenced the same..
So no, other than that, no.

HILGERS: [01:55:15] Okay, fair enough. Thank you very much; I appreciate it.

FRIESEN: [01:55:19] Thank you, Senator Hilgers. Any other questions from the committee? So is life fair amongst all businesses?

JUSTIN BRADY: [01:55:32] No. My mom used to tell me that the only "fair," it comes once a year, and out here in north Lincoln. But now she'd have to say Grand Island.

FRIESEN: [01:55:38] So for every decision we make we pick winners and losers, don't we?

JUSTIN BRADY: [01:55:42] Oh, yeah. Anytime you draw a line, there's going to be people on both sides of it.

FRIESEN: [01:55:45] So if you were going to design the system, and I realize the problem, kind of what's happening, is technology has outpaced our tax structure, so to speak. With franchise taxes, occupation taxes, some companies are probably paying double on the same access to the right of way.

JUSTIN BRADY: [01:56:04] Um-hum.

FRIESEN: [01:56:04] So if you were to design a system that was more fair and equitable, would you look more at a statewide franchise system to level the playing field? Or how would you approach that?

JUSTIN BRADY: [01:56:14] I think you could look to a statewide franchise or I think, Senator, from my understanding, if you defined what the end result was that you wanted and that was the process that was expedited. If it is, if it gets broadband to a larger number of people, if it gets broadband to rural Nebraska, that's-- as opposed to when you start defining a technology, one thing is it's going to be accurate by the time you all get through your process, and the Governor signs it, and it goes into law, it will be out of date. But if you can look at defining what you want as the public policy, and then let them all go chase it, some will be able to do it better than others, but let them chip. But when you define the technology you are picking the winner and loser immediately.

FRIESEN: [01:56:54] Well I think we did, as a, as a-- when we looked at broadband expansion, at least we looked at every technology. We did not get technology specific. So you're saying by tax policy we're choosing winners or losers in the type of technology.

JUSTIN BRADY: [01:57:10] Yes.

FRIESEN: [01:57:12] So if we can address that issue somehow, to level that playing field, that would make a difference.

JUSTIN BRADY: [01:57:18] Correct.

FRIESEN: [01:57:20] Okay. Any other questions from the committee? Seeing none, thank you for your testimony.

JUSTIN BRADY: [01:57:21] Thank you.

FRIESEN: [01:57:21] Welcome.

ALAN THELEN: [01:57:36] Good afternoon. Mr. Chair, members of the committee, my name is Alan Thelen, T-h-e-l-e-n. I'm with the Omaha City Attorney's office, and I'm here representing the city of Omaha here today. I'd just like to say a few words about small cell. What I'd like to do just briefly present some information on Omaha's experience with small cells so far. Omaha does support small cell build out. It is good for our citizens, it's good for our city. We have cooperated with the telecommunications companies that have come forward to us with proposals for small cell in our right of way, and we've cooperated with them successfully on an agreement basis. We have a template agreement that we use that allows small cell attachments in our right of way. It is a thorough agreement. Apparently it is fair to both sides. We've entered into this agreement with a number of telecommunications companies: Verizon, Mobility, ExteNet and Cox Communication. The result of that has been progress. We have-- today we do have approximately 150 small cell antennas in our right of way. Most of those are on streetlight poles. There are more being processed right now as a-- as we speak here Verizon, in particular, is getting ready to make a big push towards the build out of a lot more. So we are making progress on small cell in our, in our city. We have been able to foster development of small cells that are, just in our city, that's working out on the free market. There have been, as we all know, legislative bills and amendments over the last couple of years to address small cell. We would suggest that, at least, the past forms of these bills would disrupt this balance that, at least, Omaha is experiencing. They would, they-- in the form that they took, they've taken over the last couple of years, they would limit a city's ability to deny attachments or towers on aesthetic grounds. Rather the focus of the ability to deny is on construction standards. Will the pole be able to physically hold up the, hold, hold up the attachment? That's, that's been the focus of the ability to deny. One other problem that we have, and it's a common problem among all cities, is that the space in our public right of way is limited. It's not an unlimited resource; it's a limited resource. And there's only so much space in these, in these

rights of way and they're getting crowded. However, the legislative bill and the amendments over the last couple of years would have opened up that right of way to an unlimited extent, possibly to an unlimited number of new poles, new towers in the right of way, exposing us to a possible forest of poles in our right of way. And we don't think that our constituents want that. Finally a quick note on the proposed FCC order. As it's been indicated, it may be approved next, later this month. We don't know what the wording of that is going to be. We don't know if there's going to be amendments to that. However, in its current form, it sounds like it would preempt many of these issues that we've been talking about today or have been talking about in these prior amendments or legislative bills, meaning that we could possibly put a lot of work into some of these issues and, possibly later on, find that state legislation like this, or local legislation, could all be preempted by this FCC order. We'd suggest that perhaps it would be good to let the dust settle on this FCC order, see what, what happens from that, what's, what the result is, what, what is preempted, and then go from there. Omaha-- I guess to conclude-- would suggest that, in our experience anyway, no further legislative action is required at this time. Having said that, that concludes my presentation unless there are any further questions.

FRIESEN: [02:01:59] Thank you, Mr. Thelen. Senator Hilgers.

HILGERS: [02:02:01] Thank you, Mr. Chairman. Thank you for your testimony today. How many small cells did you say that Omaha is at now?

ALAN THELEN: [02:02:08] One hundred and fifty on poles right now, approximately.

HILGERS: [02:02:10] Really, okay, because I, when the hearing happened in 2017, I recall that maybe you all were just starting. So over 100 in the last year and a half, that's-- is that right?

ALAN THELEN: [02:02:18] That could be.

HILGERS: [02:02:18] Sound right?

ALAN THELEN: [02:02:18] Yeah.

HILGERS: [02:02:19] What's the average cost? What does Omaha charge for a pole attachment?

ALAN THELEN: [02:02:20] I'll tell you what I think it is and, if that's wrong, I'll send a letter out.

HILGERS: [02:02:28] Okay.

ALAN THELEN: [02:02:28] I believe that our template agreement says \$500, on the application, for the attachment; that's a one-time fee. And then I think it's \$500 per year after that, as a as a yearly recurring fee, to cover our continuing costs of having to deal with these additional structures in our right of way.

HILGERS: [02:02:52] Okay. Thank you; that's very helpful. Have you heard of that study that Mr. Young referenced?

ALAN THELEN: [02:02:56] I have heard of it. I'm not real familiar with it. If the goal of that study is to provide for some equitable determination of what rates should be, I think we'd be all for that.

HILGERS: [02:03:08] Okay. And then is there any, last question is-- on the FCC order, is it, if it's coming down in the coming days or weeks, I mean, is there any-- I mean it seems like that would be

enough time for the dust to settle, unless there's a lawsuit that's pending, for the Legislature to consider the impact on whatever legislation we decide to consider next year, come January. Is that-- or am I, or am I reading that incorrectly?

ALAN THELEN: [02:03:31] On paper that may be correct. I'm not an expert on FCC orders and how fast they can get implemented. Some wildcards there might involve, is there going to be a lawsuit? If so will there be a stay of the order? And I'm not sure on the federal procedure that comes after that.

HILGERS: [02:03:51] Thank you very much. Thank you.

ALAN THELEN: [02:03:52] Yes.

FRIESEN: [02:03:53] Thank you, Senator Hilgers. Any other questions? Senator Bostelman.

BOSTELMAN: [02:03:54] Thank you, Mr. Chairman. Could you-- maybe you can, maybe you cannot-- what, what hurdles have you overcome in Omaha to be able to negotiate these contracts, have small cell deployment where-- what we, our bill has not been able, we've, ,what we've written with our amendments, what we have not been able to overcome-- what have you, what's worked for you that's not working in the bill?

ALAN THELEN: [02:04:19] I think talking with the companies. We have not passed laws saying this is how it should be. We initially talked with the first company that came in, and we drafted an initial agreement, and there was a lot of give and take. We had, we had a big learning curve that we had to do. We had to learn from these companies to find out about their operations and what they were planning to do. We did that first agreement, and then in the subsequent agreements, we kind of

fine-tuned that to both accommodate the needs of the companies and also, I guess, realizations on our part that there were some additional issues to be covered. So it was kind of a give-and-take thing over the period of about three or four years that we've been doing these agreements.

BOSTELMAN: [02:05:05] So obviously there's been agreement upon that access to that right-of-way fee to where we're hearing, maybe from other cities, that's a major hurdle to overcome or, from maybe other companies, that we have this right of way fee that we're paying for, but they're not going to. But you've somehow figured a way to overcome that challenge.

ALAN THELEN: [02:05:28] A couple of years at the beginning of this process, one of our engineers in our public works department did an analysis of what our out-of-pocket costs were, approximately, and that's when we arrived at the \$500 application fee at the outset and then the \$500 per year recurring fee; those resulted from that analysis.

BOSTELMAN: [02:05:50] How many different companies are represented in that approximate 150 small cells that are out there? Do you know?

ALAN THELEN: [02:05:56] We have agreements now with four.

BOSTELMAN: [02:05:58] Okay. Thank you, sir.

ALAN THELEN: [02:06:00] Yes, sir.

FRIESEN: [02:06:01] Thank you, Senator Bostelman. Any other questions from the committee? You made the comment that you were, you were worried about too many poles in the right of way. So at some point in time, if six or eight companies want to locate there, are you going to, at some

point in time, going to deny access to the right of way?

ALAN THELEN: [02:06:21] Good public policy, whether it comes from the state Legislature or from the city council or from the city administrative officials, good public policy has to set some limit on the use of a limited resource like the public, like the public right of way. So yes, if it got to the point where they were, there were getting to be too many or they were endangering public safety or there was an unreasonable infringement on aesthetics, yes, we would have to take a look at that.

FRIESEN: [02:06:59] Okay, all the questions I have, I think. So if no one else has any questions, thank you for your testimony.

ALAN THELEN: [02:07:03] Thank you.

FRIESEN: [02:07:14] Welcome, Mr. Chaffin.

LASH CHAFFIN: [02:07:16] Thank you, Mr. Friesen-- or Senator Friesen. Good afternoon. My name is Lash, L-a-s-h Chaffin, C-h-a-f-f-i-n, and I represent the League of Nebraska Municipalities. The-- from the outset I want to say municipalities across Nebraska are all for the deployment of small cell technology. However, I want to characterize that in a slightly different way. What cities in Nebraska care about is the end result of fast internet and fast associated services dealing with wireless technology. Small cell is a mere element of that bigger picture. We care about the end result. And it-- I want to expand a little bit on what the cable TV representative, Mr. Brady, suggested, that there are numerous opportunities out there to make Nebraska a smart state with highly, with highly deployable wireless and wired technology. This week it's been the annual conference of the League of Nebraska Municipalities, and we've had, and we had numerous sessions on different high tech: how to be a smart city; how to, how to interface with the Public

Service Commission on NextGen 911. You know, Cities across Nebraska are interested in this. And as you talk one on one with cities, what you're finding, as everybody in this room knows, there, there are winners and losers, and there are success stories and there are failures. And, and more success stories are starting to pop up. And what you're hearing is, what I heard a lot about is, apparently-- and I was unaware of this till this week-- is CenturyLink is starting to do fiber, fiber, fiberoptic overlays in several of their cities. This is very exciting, and the cities, the cities have worked with them to make sure this is done. And again, this is a company that sat down with the city and negotiated the terms. You're starting to hear-- in Madison an entrepreneur is starting to put up wireless technology to, to enhance, to get high speed Internet all across the city. You're starting to hear that, as you talk, one on one, with Loup City and Madison, and various places, the success stories are starting to pop up. But I will tell you, in zero discussions did somebody say: Oh, we're so excited because the cell phone companies are going to put up small cell. What they're putting up are other technologies right now. And you know, Charter is working with, with several cities. I heard the, heard the word "Charter" to, to try to do fiber overlays. Allo is, is extending-- you know, they're just trying to do more outreach to work with more cities. And these are companies that want to sit down and make sure that they're on board with the local leaders. You know, LB389 and its subsequent amendments basically took away a lot of that and, as the cable company suggested, it created a class of wireless technology that had, that was given an advantage over the other technologies. And the other technologies, so far, seem to be wanting to work with, with local leaders. And I think, I think that's important in that, that goes back to last year the league, the league had three, three points that we wanted to make with respect to any type of small cell bill. One, we want, we wanted it to apply to all wireless technologies; that was important to us. You know, to be honest, city officials don't care about the inner working of the device; what they care about is the final result. And through, through definitions, the small cell bills always included only the, the-- they didn't include Micro Wireless, they didn't include, include a lot of the point-to-point wireless things. The, a lot of this stuff I don't understand. But they included the small cell apparatus, and so

that was something that was very important to us. And secondly, the, the-- very important to us was that ultimately we want to have some-- not necessarily a lot, but some-- final say on location and appearance. And people want this. They're not, they're not going to be tough and require all kinds of tricky things. The Wall Street Journal article that I passed around-- the, the-- you know, the antibusiness Wall Street Journal, you know, expressed, expressed some concern that in Colorado, in front of an exclusive condo, a big green tree popped up one day, and these are things that cities could prevent. They could, they could they could get to these. They, the city staff need to have some degree of zoning accountability and some degree-- it has to go ultimately up to some-- an elected official has to have some final say on how these things are located. You know, the-- just in recent history-- these aren't small cell-- but communications sightings have become very controversial across the country. Columbus, Nebraska-- I mean there was a full-year feud over a cell tower. You heard about what, with the applications in Papillion, there was-- North, North Platte had litigation. These, these, are these are things that are very important to the citizens. And we'd like to have some oversight on those things. Just, just unlimited ability to place them in the right of way is, is, is a disaster waiting to happen. And interestingly-- okay, I get that, and city officials get that all these small cell devices are--they're about the size of a volleyball. But then again, every draft of LB389 also contained provisions that would, could contain up to 28 cubic feet of associated apparatus. Twenty-eight cubic feet is two really big refrigerators. That, if something-- if that pops up in somebody's backyard, that's a problem. And so, you know, so there's a, there's, there's an interest-- there's sort of a, a disconnect with-- small cell itself is this big, but the associated devices, which do include, in some cases, diesel generators, there's-- in Nebraska there's, there have been, there's a proposal with a diesel generator to it. It happens to be in an industrial area where the city is like, yeah, go for, go for it, you know. But still, if that popped up somewhere else, that would be a big, that would be a big problem. I just learned that this week. And our third, third issue was, is that fair market value. Again, there are numerous, there are numerous, there are numerous entities and technologies competing to try to bring Nebraska into the next generation. Treating one differently

is, is something that probably we don't think is good public policy. And also in Nebraska, if you, if you ask anything less than fair market value-- and fair market value does exist-- the gas company uses the right of way, the phone company uses the right of way, the cable TV company uses the right-- there are right of way users. There is an established concept of somebody, payer paying fair market value, so anything less than that is, in fact, subsidizing a company. And I've sat through many hearings where, when a company is subsidized or provided a subsidy in Nebraska, the state and local governments demand some expectation of performance. So far, and with respect to LB389, there's been no expectation that X number of small cells will be deployed across the state. There's been no expectation of guaranteed service-- none of the above. In the past in the state of Nebraska, when we've dealt with subsidizing industries, we've created expectations that-- of guaranteed service or some concept of that or performance guarantees. As far as I can tell nothing in the various iterations of LB389 remotely approached that concept; and that seems like good public policy. And, and to, to piggy back a little bit on what, what first Senator Geist asked and then several the speakers addressed, obviously an FCC order is a game changer. We don't know how, what's going to happen in the next week with that but, however that comes out, that is a game changer. And you know, the league is not disengaged from this issue. We met with one of the three FCC commissioners a couple months ago, and we talked about this very issue. And what I just said is exactly what we told Commissioner Carr-- and very, very intelligent, very engaging individual. I mean he understood this and, and I do think, in his mind-- and it may be, not be ultimately, be written that way-- this is going to be a pre-emptive concept. And I think, as this comes forward and it starts getting lawyered up, and litigation, as a committee, you're going to need to take a very, very careful look at how this FCC order, order comes out, because it, because it is a game changer and it is something that, that is creating public policy. To be honest, I don't think the FCC is the venue the League of Nebraska Municipalities would like to dictate public policy. I assume Lynn Rex would rather talk with anybody at this table than to have to call the FCC. And that was not our chosen venue to deal with this issue, but I think there is a high likelihood that has become the venue that

this issue is going to, is going to take, take control of this issue. So and then there's another game changer in that, as the Wall Street Journal article indicates, Nebraska is not an outlier on this. Not every other state has handled this issue and we're the last holdout. The vast majority of the states have done, are exactly in the same place Nebraska is. The cities and the other providers of potential wireless facilities have fought this, and the cell phone companies have pushed it. So 30 states are exactly where we are and, of the 20, some of those states have huge carve outs for, for municipal, municipal, municipal electric utilities,, things like that. So we are not an outlier trying to-- we're not out in the wilderness trying to fight this. We understand this. We understand it quite well.

Nebraska's got, you know, representatives on the FCC committees that were assigned the tasking of coming up with model legislation and model codes. So this would, this is something that we do understand and it is important to us. But so I, we would like to move forward. We want Nebraska to move forward with respect to broadband. That's what we want. We want every, every Nebraskan, be they in a city, outside of a city, in a village, outside of a village, we want them to have high-speed access to all these things that I don't understand so they can watch YouTube videos of people playing Minecraft-- or whatever they choose to do, you know, in fact, so their businesses can have access to the services that they need to run effectively on a day-to-day basis.

FRIESEN: [02:18:39] Thank you, Mr. Chaffin. Any questions from the committee? You know this, this-- to me, the small cell bill is meant for the larger municipalities. It will probably never be used in any rural setting or a small city. It just, it's not technology that would come there. It's meant for high density areas that-- so it's not, to me it's not a issue of getting broadband out in a rural area that has nothing to do with it. But in the end that'll be a, hopefully a separate issue that we can get addressed. But those two are very separate and distinct. I guess from, from my standpoint of-- you know, if some of the things that we've tried to address, I guess, and, you know, in Lincoln here especially, you have numerous options. It's not just the small cell that provides you broadband coverage; you'll have choices. You have cable to the home, you have all these other options where,

out in rural areas, we don't have those choices and never will have; it's just not feasible, and we understand that. But we would look at least like services, I guess, that were compatible, at least from one supplier. So it's, it makes it difficult. So I guess, you know, our, our, my job here is to try to level the playing field among all, all of the players. And we always pick winners and losers. But I appreciate the cities. I hope they, we can get together, come up with some, some sort of agreement.

LASH CHAFFIN: [02:20:03] With respect your first comment, I, use the-- we're very interested in rural deployment and, if you need the League of Municipalities to do surveying, whatever we can do, use us, please, because this is, this is, this is a life or death issue.

FRIESEN: [02:20:17] What I'm, what I'm finding out-- I mean when we talk about broadband deployment, I was, I was focused more on outside of any city or village. But the more we have held hearings and learned about it, there are cities and villages that do not have good coverage. I was under the impression that most of them had coverage, but that's not the case. And so I don't, I don't know if we'll expand that further, but we were, you know, focused with broadband bill and that last-mile coverage and not the cities and villages. But it turns out that there is a need out there in some of the smaller cities and villages, too, so I think down the road, having the league maybe do surveys of their communities would be helpful to see once what kind of service they actually have in some of the communities. If there's no questions from the committee, thank you for your testimony.

LASH CHAFFIN: [02:21:02] Thank you.

FRIESEN: [02:21:14] Welcome.

ANN PROCKISH: [02:21:15] Good morning. Sorry; I'm moving a little slow.

FRIESEN: [02:21:16] That's all right.

ANN PROCKISH: [02:21:16] Okay. Good afternoon, Senator Friesen and members of the Transportation and Telecommunications Committee. My name is Ann Prockish; that's spelled A-n-n P-r-o-c-k-i-s-h, and I am the governmental affairs director for CenturyLink here in Nebraska. The voice telecommunications market is highly competitive, much more competitive than the world envisioned 30 years ago when Nebraska developed some of the first telecommunications legislative updates in the country. Today most people can choose to receive voice service from several different providers and through a number of different technologies. There is, of course, the traditional landline phone, wireless, and Voice Over Internet Protocol, where the call travels over the Internet rather than the telephone companies' circuit-based switch network. For each of these technologies, there are multiple providers, such as: the incumbent local exchange carrier, the cable company, multiple wireless carriers, and many others. Customers have spoken with their wallet for the types of technologies and services they want. CenturyLink's retail voice market share, in its Nebraska service territory, is less than 10 percent, and less than half of what it was just a few years ago. However, of all these different providers, only the incumbent local exchange carrier is subject to the jurisdiction of the Public Service Commission. This, of course, stems from the fact that, for decades, the incumbent local exchange carrier was the only game in town. Customers had no choice, and the Public Service Commission was tasked to ensure that the customer was protected from significant rate increases and poor service quality from a monopoly provider. But that is no longer the reality, and it has not been for quite some time. With so many providers offering voice telecommunication service the market now ensures that the customer will be protected. The customer can choose from multiple options to find a carrier that provides the quality service he or she needs, at a rate that he or she is willing to pay. The current statutes addressing voice telecommunication service need to be updated to reflect this reality and level the competitive playing field. It does not make sense for one group of providers to be held to a higher standard or

subject to cost, costly regulations. There is a significant cost to companies that come with regulation. CenturyLink has estimated that in 2016 its direct costs of being regulated in Nebraska came to approximately \$3.5 million. In determining this calculation, CenturyLink looked at the, CenturyLink looked at the cost of mailings, travelled to sites around the state, and salaries of those individuals tasked by the company with ensuring compliance with the regulatory framework. CenturyLink would rather invest those resources for better things, such as the deployment of broadband service in rural areas of the state. We believe that, if the company invests in the broad, in the deployment of broadband, not only will Nebraskans see more efficient, effective use of the Internet in their daily business and personal lives, but it would generate additional sales, property, and income taxes. Simply put, less regulation means less costs, which means more investment. The Public Service Commission will continue to serve an essential role in telecommunications across the state. CenturyLink believes that the Public Service Commission is best positioned to handle complaints from customers regarding service or billing issues from any telecommunications provider. The Public Service Commission already handles these complaints for customers and has the processes in place to ensure that a customer is able to obtain resolution to problems. Some of these complaints are handled through a formal process and some are handled through an informal process; that can and should continue. Now let's address the elephant in the room. Yes, CenturyLink has had some weighty service quality issues in some rural areas of the state, specifically the Valentine area. There are unique challenges that come with providing service in very rural areas. Loop lengths are very long, often reaching 40, 50, or 60 miles. Rodents, especially gophers, love to eat both fiber and copper cable. County road maintenance will, over time, remove the ground cover from the buried cable, exposing that cable and making it vulnerable to damage. Our technicians have been working hard to address the service problems that these customers are experiencing. These service quality problems, however, do not mean that CenturyLink has not been investing in its network. On the contrary, CenturyLink has invested more than \$200 million in its network in Nebraska over the last five years. As for Valentine, not only has CenturyLink invested millions of

dollars in this exchange over the years, but we have submitted an application to the Public Service Commission to use high cost NUSF support that has been allocated to the company for a project that will replace the aging copper network in rural areas of the exchange with fiber and make upgrades to the central office. This project will accomplish the dual goals of improving service quality for voice service and extending broadband service to these customers. I'd just like to take a couple minutes to go off script from my written testimony and address a couple of the issues that were raised earlier in the hearing today. Mr. Wolfenden noted that CenturyLink was receiving \$3 billion of support, federal universal service support. That is an award for all of CenturyLink in 33 states for the CAF 2 deployment project. That is state specific grants and in Nebraska, Nebraska will receive, CenturyLink will receive \$40 million over seven years in the state of Nebraska for the CAFII deployment, and that is-- the FCC has said that that is for CenturyLink to get service to somewhat less than 11,000 locations in specific census blocks in the state. Unfortunately, those census blocks do not include the area where Mr. Wolfenden lives. This is one of the reasons why CenturyLink has submitted this application to the Public Service Commission to use state Universal Service funding to address the service quality and broadband issues out there. Secondly, Commissioner Schram noted a customer in Papillion that wasn't able to get service. This customer had built a house in a brand new development. There was no request from the developer to CenturyLink for deployment of our facilities to the area. All we did-- we are happy to provide service to the customer but we're asking that the customer pay the excess construction costs, and this is per our tariff that has been in place with the commission for more than ten years. So this is not a new process. This is not anything new that we are doing. This is the process that we have been using for more than ten years when we are asked by a customer to extend facilities to their location. As for the legislation, we are looking at doing some new legislation in 2019, and there will be some changes to what we had proposed in LB573. For example, we are looking at modifying the language to allow the application to be defined within the city limits versus the entire exchange. This will allow us to ensure that the customers in rural areas of the exchanges will not be subject to

the deregulation and will be continued-- have protections from the Public Service Commission for billing and service quality issues. In addition, we are eliminating that 75 percent threshold that Commissioner Schram referred to where, once we reach 75 percent of the households in our service territory, the remainder basically became deregulated automatically. We are eliminating that from this proposal. In summary, the current statutes for voice telecommunications service do not reflect the current highly competitive reality in which telecommunications companies operate. These statutes should be updated to ensure a fair and level playing field for all providers. I'm happy to answer what I'm sure is a lot of questions that you have.

FRIESEN: [02:29:31] Thank you, Ms. Prockish. Are there any questions from the committee?
Senator Briese.

BRIESE: [02:29:34] Thank you, Chairman Friesen. Thank you for being here. Going back to the Valentine situation-- I think Senator Hughes asked about it earlier. What type of time frame do you see on getting that rectified?

ANN PROCKISH: [02:29:43] We submitted the application to the commission on September 5th. It was put out for public notice on September 12th. It will have a 30-day notice cycle, after which I hope that we will get swift approval from the commission. It is a huge project. Valentine is a huge exchange. It has over 1,500 square miles to it and, like I said, much of it is very rural. So we are splitting it up into three phases. The south route, which includes Mr. Wolfenden and his family, will be the ones that are done first. We will start that in 2019. The way the engineers put it to me was that, if all-- if everything-- goes right, so if all the weather gods smile on us, we could get it done in 2019. But we, I obviously have to temper that a little bit because, as we know, our winter of this past year lasted well until April, so.

BRIESE: [02:30:39] Thank you. And I was taken aback by that testimony, and it sounds like it's been a persistent, ongoing problem for ten-plus years. So what's the answer to that? How do we prevent something like that from happening again? We're talking about less regulation here. Do we need more regulation in rural Nebraska?

ANN PROCKISH: [02:30:54] No, we don't need more regulation in rural Nebraska.

Unfortunately, Valentine was just a confluence of events where the network has just-- is becoming increasingly aged. As I pointed out, gophers like to eat. We have a lot of problem with gophers chewing through our cable. My, our area supervisor in that area was telling me just the other day that he had put in a 3-pair temporary cable. I don't think it was at Mr. Wolfenden's place, but it was probably somewhere down in that area. He had put in a 3-pair, temporary cable and it took gophers eleven days to chew through it. So it's, you know we got to address, you know. Unfortunately, gophers or rodents are a constant problem. Fiber that we put in place will be armored, but that may just slow down the gophers to some extent. But we will do everything we can to avoid that. I know my area supervisor for-- is going to replace that now chewed-through 3-pair cable. He said he was going to put in a 6-pair cable. He was going to go around an area. He was going to end up putting in 10,000 feet of cable. And he was going to put it, like, along a road because he said gophers don't like the vibration that comes from cars and trucks driving on the road. So we're doing everything we can to address the situation, but we've got to deal with the fact that the cable is laid in certain areas now, and it's not just that easy to go in and change that configuration.

BRIESE: [02:32:23] It's not an easy solution, I'm sure.

ANN PROCKISH: [02:32:25] No, there's no easy solution, but I'm very hopeful that this NUSF project that we're going to do in Valentine will address a significant number of those issues.

BRIESE: [02:32:37] Okay, thank you.

FRIESEN: [02:32:38] Thank you, Senator Briese. Senator Bostelman.

BOSTELMAN: [02:32:38] Thank you. Just a couple comments, not just this-- you got-- one is, why not go overhead? Why are we burying? We know there's a problem. We know it ain't going to last. Go overhead, and it's done in other states. And it has been found, by going, by going overhead with that, that there really isn't that much of a difference, you know. We can-- if the lines go down, you can get them back up; they're usually not that significant of an issue in other parts; and other states have done that. So as, just as a-- you know, I'm sure they've thought of that already. But why not go overhead? If we've got, if we know we have significant problems, if we know we're going to have problems with rodents, badgers whatever they are, you know.

ANN PROCKISH: [02:33:22] Um-hum.

BOSTELMAN: [02:33:22] I hope that's looked at to see if that might be part of a solution, maybe, in certain areas where you do have problems-- go overhead instead of burying it-- is this comment. And the other comment, I guess is--and it's not just specific to yours, your area and what you're doing at all, it's more on just how companies function in general-- it seems like, in rural areas where it's not as profitable, we have to wait till we get some type of grant, some type of tax relief, some type of incentive, going out there and putting it in. And yeah, it's going to cut into your overhead profit, but you still have an overhead profit. But where I'm at, or I'm sure the gentleman there is, if you got to charge me more to get that there, you know what? I'd probably pay it just to get that service there, because I tell you what; we're paying an exorbitant amount with what we have now for our cell phone, for our satellite, for whatever it is for our connectivity.

ANN PROCKISH: [02:34:16] Hmm.

BOSTELMAN: [02:34:16] So you know, to me it's, sometimes it's frustrating in hearing that we have to have, we have to have money go to, not just-- I'm not just, I'm not picking on CenturyLink at all-- but we have to have grants, we have to have extra funding, we have to have incentives in order to do it when, quite frankly, I think some of the users in those areas would probably be willing to pay because I may pay less, actually, what that cost might be. And I wish that would come into play a little bit more, on some of these companies, than saying we have to wait to get more money so it's profitable for us to do it. Now that's just not on CenturyLink; that's just a comment, in general, that I'd like to make.

ANN PROCKISH: [02:34:55] If I may--

BOSTELMAN: [02:34:56] Sure.

ANN PROCKISH: [02:34:57] On your first point about going overhead, yes, I understand that some utilities still go overhead. For us we found that a lot of weather issues do impact the aerial cable. So we get ice storms, we get significant snowstorms, we get a windstorm-- brings those cables down, customers out of service. And so it actually ends up costing us more to put the cable back up onto the poles than it is to have it buried and then deal with rodents. So for us we, we looked at both possibilities, both options, found it to be cheaper, in the long run, to be dealing with it-- buried cable versus aerial cable.

BOSTELMAN: [02:35:34] Well, that's fine.

ANN PROCKISH: [02:35:34] Okay.

BOSTELMAN: [02:35:34] I mean, I, I, I mean it was just a comment because I know other parts of the country where they do have tornadoes, they do have ice and that.

ANN PROCKISH: [02:35:41] Um-hum.

BOSTELMAN: [02:35:41] And they've not found a significant difference there, and it was quicker and easier for them to go overhead than it was--

ANN PROCKISH: [02:35:46] Right.

BOSTELMAN: [02:35:47] -- to bury [INAUDIBLE].

ANN PROCKISH: [02:35:47] I mean we've just found it's better to bury the cable--

BOSTELMAN: [02:35:48] Sure.

ANN PROCKISH: [02:35:48] -- because, believe it or not, there's actually less possibility of damage to the cable by burying it versus having it aerial. To give you an example of that, in the city of Omaha in 2017, just last year, we had six major outages as a result of cable cut, because vandals were stealing our copper cable that was hanging off of a bridge.

BOSTELMAN: [02:36:15] Hmm. Um-hum.

ANN PROCKISH: [02:36:15] So then you got to think it took quite a bit of-- they were pretty committed to steal this cable, because it was a big heavy cable and it was hanging off a bridge.

BOSTELMAN: [02:36:24] Um-hum.

ANN PROCKISH: [02:36:24] We ended up, when we replaced that cable, burying it so we, eliminating the chance that somebody could come along and steal it in the future. So to your second point in terms of-- you know, I agree it shouldn't be a matter of that you have to wait for a grant to come across. A lot of it also, too, is just the allocation of resources. Unfortunately, there's only so much fiber out there. There's only so much electronics out there. There's only so much skilled labor that's available for doing the work to install these things. So a lot of times it's just a matter of going after the worst problem first.

BOSTELMAN: [02:36:57] Sure. Thank you.

FRIESEN: [02:37:00] Thank you, Senator Bostelman. Any other questions from the committee? You made the comment that you had invested \$200 million in, in, I guess, "upkeeping" the system in Nebraska.

ANN PROCKISH: [02:37:11] \$200 million of investment in our network in Nebraska over the last five years, yes.

FRIESEN: [02:37:15] So where, where's-- how much of that was invested in the Valentine exchange?

ANN PROCKISH: [02:37:20] Several million dollars. I would be more than happy to pull that number together and get it to you.

FRIESEN: [02:37:24] Okay. So did the, did you ever receive USF or NUSF funds for that exchange in order to put it in service to start with?

ANN PROCKISH: [02:37:35] Up until a few years ago, the NUSF funding that CenturyLink received was an allocation that we were to-- that was to be used for the maintenance provision and upgrade of service throughout our service territory. Several years ago the commission has changed that and now requires CenturyLink to use 80 percent of its NUSF support for these broadband projects. And as Commissioner Schram talked about, it's a situation where we have to go in and say we want to do this project and it'll cost X million of dollars or whatever the number is. And we request to use some of this NUSF funding to do that. They approve that project, then we move forward with it, make the investment, and then request reimbursement from the commission out of that pot of money that's been made available to us. So my recollection is that Valentine probably gets, you know, prior to that, that change, that 80/20 allocation, prior to that sent, Valentine was getting maybe about 300, would get about \$300,000 a year in NUSF support for, for basic maintenance provision and upgrading of service.

FRIESEN: [02:38:55] Okay. Have you ever, has the company ever turned down USF funds?

ANN PROCKISH: [02:38:58] Not to my knowledge, no.

FRIESEN: [02:39:04] That's probably the only questions I have. Any other questions from the committee? Thank you for your testimony.

ANN PROCKISH: [02:39:08] Thank you for your time.

FRIESEN: [02:39:21] How many more people wish to testify?

CURT BROMM: [02:39:31] Afternoon, Senator Friesen. Curt Bromm, and this is one more than was going to testify. The spelling my name is C-u-r-t B-r-o-m-m, and I'm a lobbyist for Verizon, here to just share a couple of brief comments. I could not sit here and listen to all of this and listen to the city's talk about the need for paying a fair market for using the right of way without reflecting back to past years and the Nebraska occupation tax. As you know, we have the first- or second-highest taxes on telecommunications in the entire country. Alaska may still be ahead of us, but the other two states that were ahead of us are now, have lowered their fees. Originally, my understanding from the historical occupation tax passage, is that that was levied on telephone companies for using the right of way. That was a charge for using the right of way, so they would pay a percentage of the bill to the city and they'd get the use of the right of way. Well now comes wireless. And how has wireless use the right of way? How does it use the right of way? And yet millions and millions of dollars of this high occupation tax are going to the cities. Ask Lincoln how much they receive in occupation tax. And what is that for? I mean I'm pretty sure it goes in the general fund. Omaha gets a tremendous amount of occupation tax; every city does. If your ZIP Code is Wahoo, Wahoo gets an occupation tax off your cell phone. Okay, that's okay, but I didn't hear anybody mention that when they say: Oh, we have to have, we have to have fair market value for putting a box on a pole-- and the pole probably already is there-- to use right of way to give 5G to the people of Nebraska. So I just ask you to keep that in perspective when you're talking about reasonable fees. And it may be that this is all going to be moot with the FCC, but I doubt it. But why would the FCC step in anyway? The reason the FCC steps in is because we are falling behind China, we're falling behind Japan, we're, we're falling, we're way behind Korea, and we're going to be behind other countries in the world if we don't deploy this kind of technology. And it's not getting deployed fast enough. So how do we get it done? So then somebody says: Well, the FCC has to step in because there are too many impediments, there are too many barriers. Otherwise they wouldn't be there. So I think two things: Don't forget that we are paying a tremendous amount of

occupation tax; secondly, this is not just a Nebraska issue. This is a national issue and the FCC is trying to react to that. I also can't go without reminding us-- and Senator Friesen and your legal counsel worked very hard on this-- in LB389, early on, we put in a, an amendment, at a cable company's request, to let Strand Technology go on the wire, without any fee whatsoever, because that was a technology that they indicated was competitive with this technology. So that amendment has been on there for a long time. That wasn't good enough, so we asked what else do you want to make this a level playing field, so to speak. No, no response, nothing-- no comeback with any suggestions. So what are we supposed to do? We put in exemption for any technology we knew they had. Well, now we see that at least one cable company is going to be operating in the telephone business, which we didn't know last session. And if there's something there that they feel they need to make this fair, then, you know, come forward with it. But I just, I'm sorry, but I could not-- it seemed like the occupation tax issue was going clear over our heads here, in terms of what's fair and what's being paid and what it's being used for. And then, secondly, I do understand why the FCC is getting involved. I wish they weren't, but maybe it's necessary for us to be competitive. I don't know if you got an article of the Wall Street Journal that I tried to e-mail to you all, but it's a very good article and it does talk about the problem in the US of competing with China and other countries in terms of we're falling behind in our technology. I don't think we can afford to do that. That will ultimately affect agriculture. That will ultimately affect our businesses and their decisions whether to locate in the US or somewhere else. And so I just thank you for your time. This has been a fairly long hearing, and I appreciate your patience. I, again, I, I won't go on with it. If there are any questions that I can answer, I'll be glad to try to.

FRIESEN: [02:44:53] Thank you, Mr. Bromm. Are there any questions from the committee?

BRIESE: [02:44:56] Yeah, I've got one.

FRIESEN: [02:44:56] Senator Briese.

BRIESE: [02:45:00] Thank you, Mr. Chairman. And thank you for being here. Do you agree with the statement earlier from one of the testifiers, that attachment fees comprise 1 percent or less of total construction costs?

CURT BROMM: [02:45:12] I do not have, I do not have an answer for that, Senator Briese, but I will ask.

BRIESE: [02:45:20] And that, that's all right.

CURT BROMM: [02:45:20] Of course it would depend on whether it's \$2,000 or \$20, I'm sure, but I will try to get an answer to that.

BRIESE: [02:45:29] Okay, thank you.

FRIESEN: [02:45:29] Thank you, Senator Briese. Senator Bostelman.

BOSTELMAN: [02:45:32] Thank you. You can comment to this, if you wish, or not. Do you feel-- Omaha seems to be working well, it appears-- don't know for sure-- with Verizon, with negotiation to that.

CURT BROMM: [02:45:44] Um-hum.

BOSTELMAN: [02:45:44] Do you think this is more of a city problem? Or is this more of a state problem? In other words, I think there's other towns across the state that have small cell technology

they put into the cities--

CURT BROMM: [02:45:56] Yeah.

BOSTELMAN: [02:45:57] -- that there's been work done that way. Is, is it, is it a-- are we looking at specific cities we're having issues with? And do you think it, do you think this-- is your-- if we're, if we're able to work this in-- I don't know-- a majority in the state or not--

CURT BROMM: [02:46:12] Yeah.

BOSTELMAN: [02:46:12] -- and we only have a couple outliers there that we're really fighting with, if you will, or have the challenges with, is that the case? I'm just trying to understand the legislation, if, you know, why we're being driven in this sense.

CURT BROMM: [02:46:26] Sure.

BOSTELMAN: [02:46:26] Part of it I understand. You know, if there's one, then it's easier to go and let it through.

CURT BROMM: [02:46:29] Yeah.

BOSTELMAN: [02:46:29] But if we're just-- if it's Lincoln, if it's, you know, whatever city-- you pick, it-- you know, David City, Wahoo, whatever-- North Platte, if it's a city issue-- or is it a state issue, do you think?

CURT BROMM: [02:46:41] I, I--you know, and I can only, I can only address that from my

experience, and what I've tried to work with Verizon on this issue. We've, we have found, in working with the officials in Omaha, both on trying to get some small cells established and also getting Next Generation fiber installed, that they've been very willing to, to, to talk and to work, tried to work a solution that was not harmful to them, but beneficial, hopefully, to both sides. And so there's been quite a bit of progress there. I was not involved in the Lincoln situation, but it seems like it's kind of where it's at, and there, there has not been any, any movement to, to negotiate something a little bit more reasonable. With regard to other towns, there have been some other-- a few other-- installations, and it varies from town to town. But I think if, if a company is looking at bringing in a lot of capital to do this on a larger scale, they like some predictability on cost and time frame. And if that predictability isn't there, then they would more likely go to Iowa where it is predictable. I understand there's about 400 small cells already, either going in or will be in, in Des Moines very, very soon, and that's because they know what the cost is and they're able to work it out. But I-- is statewide legislation needed? In some cases it probably isn't, but I'm afraid, if you don't have some sort of standard format, you may not get the investment in here that we need, you know, so..

BOSTELMAN: [02:48:42] That's true. Thank you.

CURT BROMM: [02:48:42] Sure.

FRIESEN: [02:48:45] Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you.

CURT BROMM: [02:48:51] Thank you, Chairman.

FRIESEN: [02:49:05] Welcome.

JOE KOHOUT: [02:49:07] Chairman Friesen and members of the Transportation and Telecommunications Committee, my name is Joe Kohout, K-o-h-o-u-t. I'm a registered lobbyist, appearing today on behalf of the United Cities of Sarpy County. The-- Ms. Rupiper testified a short time ago on the issue of small cell. I am now going to, as they say, do something completely different and, rather, I've been tasked by Mayors Black and Kindig to relay to the members of the committee their experience on the spoofing issue, and I've been directed by them to, to come down and share their experience with you. Both Mayors Black and Kindig have had many incidents over the last two years where they, they are bombarded in short periods of time with the same basic e-mail which, in almost every instance, appears that it's from a local resident of Papillion or La Vista. A few of the names, in Mayor Black's case, were names that he knew, individuals that he knew. And in those circumstances he reached out directly back to them and asked about the e-mail. In cases where he didn't know the person he, in some cases, responded to the e-mail with another e-mail. In every incidence, Mayor Black received a response, where he contacted them and they told him they did not send the e-mail nor did they know anything about the issue that apparently they had e-mailed the mayor about. In most instances-- and probably the most frustrating part is that they're sending the e-mails to Mayor Black's work account, not his mayor's account; they're going to his private work e-mail account. This begs the question of where the individual or individuals got that internal e-mail address and to cause them to bypass the official address of the mayor of the city of Papillion. Mayor Kindig received over 1,400 such e-mails from, all from what registered to be individuals of the city of La Vista. And it shows them, that shows them that these e-mails were somehow obtained, and the real person was having their name inappropriately used. Because of this consistency in the volume, the only conclusion, and because of the nature of the e-mails all dealt with the small cell issue, they believe that this was related specifically to-- and individuals in support of that were in fact the ones responsible for spoofing the e-mail accounts. And so they draw this conclusion based on that experience. And so thank you, Chairman Friesen and members. I will

try to answer any questions that you might have but, if I could go off script just for one second to a question that Mayor, that Senator-- Mayor, I was about to say Mayor Bostelman-- when you represent mayors you-- you know, I think if-- one comment that I would just make, based on our experience with the cities, is that once those, once the cities in Sarpy County became aware that they were being, that there was an inquiry with regards to the deployment of fiber into those cities, Papillion, La Vista, and Bellevue all got together and said: Let's figure out a way to do this jointly. So I think there is room, like when you when you talk about the fact that, is this a one-- is there a statewide solution to this problem? Or is this just an isolated problem? I think to some extent that kind of depends on the situation and, in our case, in my client's case, they're working very cooperatively. I know that they've met with Verizon in an effort to try to come up with that solution. So it's going to vary, case by case.

BOSTELMAN: [02:52:45] Sure.

FRIESEN: [02:52:45] All right. Any Questions from the committee? Seeing none--

GEIST: [02:52:51] [INAUDIBLE].

FRIESEN: [02:52:51] Oh, oh. Senator Geist.

GEIST: [02:52:51] I'm sorry; I'm always late to the party.

FRIESEN: [02:52:53] [LAUGHTER]. That's [INAUDIBLE].

GEIST: [02:52:53] I just, I'm wondering with the spoofing which is, especially now that I'm remembering when this happened, a big concern. And-- but it seems that, even if we do legislate an

agreement of some sort of teeth, that actually executing, or-- that's a bad use of the word-- well, carrying out that--

JOE KOHOUT: [02:53:15] Right.

GEIST: [02:53:16] -- is very, very difficult.

JOE KOHOUT: [02:53:23] I would agree. I, and it's difficult; I will admit that. Is this, is this the right venue for that question? But I think when you, as elected officials, are trying to take in the information, I think it's very important for you to have this perspective and to know to some extent you weren't alone when this, when this started to transpire. With some of you is that there were local officials out in, out in Papillion and La Vista at least, who were dealing with this for the last year or so. To the extent that putting teeth in it-- I don't know how the state does that, and maybe that's something that, you know, I know, when you talk about scripts and that sort of thing over at the Public Service Commission, I don't know if you could look at that model with regards to polling scripts as, as a potential-- and I don't, I don't know. But maybe that's a way to look at it.

GEIST: [02:54:12] I know it does cause one to be more suspect of their e-mail.

JOE KOHOUT: [02:54:16] Um-hum.

GEIST: [02:54:18] And that's an unfortunate outcome of that, but--

JOE KOHOUT: [02:54:21] And it's embarrassing to a mayor to call somebody and say: Well here, let me explain to you my position on this, and then turn around and say: Well, that's great. Thanks for calling, Mayor, but why did you call me?

GEIST: [02:54:37] Yeah, yeah. Thank you.

FRIESEN: [02:54:37] Thank you, Senator Geist. No further questions?

JOE KOHOUT: [02:54:40] Thank you.

FRIESEN: [02:54:41] So thank you for your testimony.

CHRIS DIBBERN: [02:54:47] Good afternoon, Senators. My name is Chris, C-h-r-i-s Dibbern, D-i-b-b-e-r-n, and I'm the general counsel for NMPP Energy, with concerns about a little different issue, but around everything that you've heard today and that states' rights and state actions in the small cell arena. The 10th Amendment is, it enumerates the states' rights, and I think this is an important issue for the committee to hear. The FCC pending docket that Senator Rice [SIC] mentioned likely will be decided shortly, and their major tenets of small cell is, are in, in that docket. Several hours ago a large number of US cities, both big and small, voiced concerted and coordinated opposition to the FCC, saying the shot clock is too extreme, the FCC is prohibited-- their prohibitions are too broad, that the fee structure is unreasonable, and it harms local policy, and-- however, the likelihood of stopping passage is slim. But I still think the states have a right about what they negotiate, and that's the point I'd like to bring back to the committee. The 20 states that passed this legislation, the states that we operate in-- Colorado, Iowa, Kansas-- they are not happy about negotiating with the, with the state and now being told that they're preempted by the FCC. And states feel that, that their committees should have had some say in this. What this committee looked at today, I thought was very important. Addressing rural concerns-- you heard some really difficult stories. We support the industry, whether it's cable, traditional, wireless. We also would like public power to be treated uniformly. Municipals are part of that family. And lastly,

the city of Lincoln sent in a letter to the FCC-- yes, September 18th-- that they said the FCC is restricting local authority. It stymies local innovation and it subsidizes certain wireless providers. So with that,, I'd like you to take a look at the whole issue of small cell but knowing that, if we get preempted, the Congress has spoken. That which is delegated to the United States by the Constitution, and not prohibited by it, is reserved to the state. And I think states' rights are important, and the 20 states that passed this are not happy about how they've been treated.

FRIESEN: [02:57:41] Thank you, Ms. Dibbern. Any questions? Senator Geist.

GEIST: [02:57:48] I do have one. And I might have heard wrong or presumed differently, but I thought we had heard that those 20 states are grandfathered in. Are they? Am I misstating?

CHRIS DIBBERN: [02:58:01] No. I-- no, the Congress will occupy the field, and they are not grandfathered in. In fact that their existing contracts, subject to check, I think are impacted by this.

GEIST: [02:58:12] Um-hum. So would that mean that, let's say for instance-- I don't know the agreements-- but say Colorado's pole attachment fee was \$20 per pole.

CHRIS DIBBERN: [02:58:24] Um-hum.

GEIST: [02:58:25] Then this-- well, that would be within the agreement.

CHRIS DIBBERN: [02:58:27] Right, it has to be over it.

GEIST: [02:58:28] Let's say \$500. Let's just say \$500. Then that would be subject to what is fair and reasonable. And they could be--

CHRIS DIBBERN: [02:58:37] That's my understanding. That's my [INAUDIBLE].

GEIST: [02:58:38] -- in court for that particular agreement. Is that--I mean is there--

CHRIS DIBBERN: [02:58:43] And there may be experts on that, that tell, but the way I understood it is that agreements that were made in the state are not that the FCC will trump that.

GEIST: [02:58:53] Oh, interesting. Okay, thank you.

FRIESEN: [02:58:53] Thank you, Senator Geist. So I mean the way, the way I understood it, I mean, look, we all need to sit back and wait for the, for the ruling to come out and, when we see that, we can, we can draw our own conclusions to what it says. So I, I want to be cautious, too, and say that we will wait for that. And I, I do, I, I'm a very strong supporter of states' rights. I think we've given too much of our rights over to the federal government. And so I-- that's-- I'm a strong believer in that and I don't think they should pre-empt. But at the same time it seems like sometimes it's difficult--

CHRIS DIBBERN: [02:59:29] Thank you.

FRIESEN: [02:59:29] -- for some states to get things accomplished, so I think that's part of the reason, so thank you, Ms. Dibbern.

SHELLEY SAHLING-ZART: [02:59:42] Good afternoon, Senator Friesen, members of the committee. For the record, my name is Shelley, S-h-e-l-l-e-y Sahling-Zart, S-a-h-l-i-n-g-hyphen-Z-a-r-t. I'm vice president and general counsel for Lincoln Electric System, the municipal electric

utility here in Lincoln, serving Lincoln, Waverly, and a little bit of the surrounding area. I'm going to step you back just a little bit. I was not even planning to testify, and I apologize if I repeat anything before I came over from my office. But I listened to a number of things. I listened to the way Tip laid out the hearing and there were a number of issues addressed. I've heard mostly about small cell. Senator Friesen, I know for years you have talked about, as have Senator Briese and Senator Bostelman and others talked about, rural telecom and the vital need for broadband access in rural Nebraska. Haven't heard a lot about that today. I think everybody in this room-- the one thing I think everybody here today will agree on is the importance of telecommunications to the economic prosperity of this state. I don't think anybody's going to disagree with that. I think what we're feuding about is how we go about doing that. So with regard to small cells, there's a lot of various issues in there. There's, there's fairness arguments. You know our concern, as municipalities, is we're talking about the public right of way. We're talking about poles in the public right of way, and a very public process we all had to go through to acquire that right of way, and a public purpose that we had to define, and fair market value we had to pay for those rights of way. And you know, nobody's talking about the expectations on the other side, which is the landowner and what their expectations of that public right of way we're going to be over the long haul. I'm not saying we shouldn't put them in there; I'm saying we need to have a discussion and figure out how to do that right. Occupation taxes-- maybe that needs to be revisited. There's a whole lot of things. Fiber in rural Nebraska-- that needs to be addressed. So what am I really saying? What I'm saying is let's not do this piecemeal. Small cell is one technology, and that may be one thing that goes in the public right of way. What are we going to put in five years from now? That's where my concern is. So mine is we ought to be sitting back, and I sat along with several people in this room at the University on a roundtable that talked about a strategy for telecom in the state. And that's really where we need to do. We need to sit down and think about all the technology we have and what we see coming at us. And we need to have a robust, robust telecommunications strategy for this state that will get all those things done and that will do that in a way that's fair and equitable and takes all

of these things into consideration. We've got to stop fighting with each other. We've got to sit down and have a meaningful conversation about all those things. So I didn't really have anything more to say than that other than this piecemeal approach I don't think is going to work. And I think that's, I think that's why we're so hung up on small cells right now.

FRIESEN: [03:02:45] Thank you, Ms. Sahling-Zart. Senator Bostelman.

BOSTELMAN: [03:02:51] Thank you. Question for you would be, can you talk to me a little bit more about what Mr. Bromm talked about? And my question comes about Nebraska occupation tax, specifically to telecoms, and his mention of that that was part of the right of way fee versus the utilities now paying a right of way fee. Are we talking apples and oranges? Or are we talking similarities? Or can you explain that a little bit?

SHELLEY SAHLING-ZART: [03:03:19] I really can't, Senator. That's probably not my wheelhouse. That would have probably been more for David Young from the city. The city collects those occupation tax. I will tell you though, LES, LES works a lot with various utilities. We have pole attachments. I hear that referred to every once in a while. We have a pole attachment fee, and people want to compare that to the small cell attachment fee-- not the same kind of installation at all, not the same kind of attachment. They have a much different commercial value. We're typically dealing with landline phone companies and cable television companies that are, that are attaching cable for a span. So it's an attachment for a pole over a span. So you have to look at those, where a small cell is on a couple of poles maybe. It's, it's just a different kind of animal. So the occupation tax thing, I'm sorry, I probably can't get into that. But what I did, what I did want to say is I don't think some of this is as hard, because we've been working with a lot of telecom companies for a lot of years.

BOSTELMAN: [03:04:16] All right. And I think you kind of touched on the question I asked, along several testifiers ago, about what's the difference between the attachments and the pricing, and you kind of-- and Senator Friesen also kind of hit that a little bit, like on a cable attachment.

SHELLEY SAHLING-ZART: [03:04:27] Um-hum.

BOSTELMAN: [03:04:27] You're saying there's different types of attachments that are out there already.

SHELLEY SAHLING-ZART: [03:04:31] Um-hum.

BOSTELMAN: [03:04:31] And there's different fees for those types and just kind of how that all, you know, what, how much difference that is from what we're talking now with a small cell.

SHELLEY SAHLING-ZART: [03:04:40] Right.

BOSTELMAN: [03:04:41] And it's been answered to the time, but that was really where I was going with that. There are attachments out there already.

SHELLEY SAHLING-ZART: [03:04:46] Yes.

BOSTELMAN: [03:04:46] And there are fees with those, if you will, and how is that different? And what are those different from what we were talking about, a small cell?

SHELLEY SAHLING-ZART: [03:04:52] Um-hum.

BOSTELMAN: [03:04:52] I think we hit that quite a bit. But okay, thank you.

SHELLEY SAHLING-ZART: [03:04:56] You're welcome.

FRIESEN: [03:04:56] Thank you, Senator Bostelman. So could you tell me what, what an attachment fee is for a cable company?

SHELLEY SAHLING-ZART: [03:05:03] In Lincoln? I can tell you what LES's fee is.

FRIESEN: [03:05:07] Yes, [INAUDIBLE].

SHELLEY SAHLING-ZART: [03:05:07] Lincoln Electric System, and it's published in our, our rate schedules and our tariffs. Our pole attachment fee is currently \$15.50 per attachment per year.

FRIESEN: [03:05:16] Okay. Do you, do you do any of the attachments, or do those companies do their own? Or how do they go about doing that?

SHELLEY SAHLING-ZART: [03:05:22] It varies. In Lincoln I can tell you that LES owns a little over half the poles in the city. Some of those include city poles, and Windstream owns a little less than half. So some are doing their own. It kind of depends on where the poles are and what they are. Some of that we will handle. I know, even on joint trenching, we have a joint trench agreement with the cable company and the telephone company. When we're going into, for example, a new underground-- a new residential district-- we will do the trenching, and we will open that up for everybody to lay that in rather than everybody coming out separately. And then we build them their respective shares. But, you know, that was an agreement that we worked out with them. So cooperation happens.

FRIESEN: [03:06:09] Yeah, all right. No more questions from the committee? Thank you for your testimony.

SHELLEY SAHLING-ZART: [03:06:14] You bet; thank you.

FRIESEN: [03:06:26] Any others who wish to testify? Seeing none, I think we'll close the hearing on LR441. Thank you all for attending.