



**Senate Energy and Technology Committee Testimony
Support for Senate Bill 499
November 29, 2011**

Good afternoon Chairman Nofs and members of the committee. My name is Scott Stevenson and I represent Michigan's rural broadband and telecommunications companies that belong to the Telecommunications Association of Michigan. Joining me is Mike Holmes, our general counsel.

Our membership supports Senate Bill 499 because it will:

- Make it possible to deploy broadband services to areas of the state where it is currently cost prohibitive
- Improve economic development opportunities for the state
- Establish policies akin to the METRO Act to standardize rights-of-way access on rail trail corridors

The cost of investing in and maintaining broadband networks is very high. The added costs of state fees can be the difference between consumers being offered broadband services and not. That is why the Michigan legislature has twice passed legislation specifically lowering state fees and standardizing the application process for the provision of telecommunications services.

In 2002, the METRO Act was enacted to encourage broadband deployment by establishing a single fee schedule and permit process for accessing public rights-of-way. This resolved a situation in which providers were being asked to pay widely varying fees depending on where they were trying to do business within the state. The METRO Act reflected the legislature's belief that creating an environment that promotes broadband deployment was far preferable than one in which providers faced excessive fees and regulations.

In 2006, the METRO Act was followed up with the enactment of the Uniform Video Services Local Franchise Act. This law promoted the creation of a competitive cable TV market by creating a statewide franchise process. It replaced an outdated system that required providers to agree to different fees and regulations in each municipality. Again, the video franchise law established a single standard to help providers establish and conduct business in the state.

SB 499 is another step in rationalizing the state's broadband permit process. It is consistent with Governor Snyder's recent call to "streamline the broadband buildout process." Senator Casperson's bill establishes a single, statewide application and per liner foot fee for access to rail trail rights-of-way. Providers will be required to restore the trail to the condition they found it and will work with local officials to ensure they don't disrupt any planned events on trails. The fees collected under SB 499 would be placed in a trailway development fund that will be used to support the rail trail system.

The Department of Natural Resources (DNR) argues that SB 499 should contain a much higher fee that is paid annually. We couldn't disagree more strongly. The DNR's existing permitting process is

discouraging providers from deploying broadband networks along rail trail corridors precisely because of the excessive fees it imposes and the significant time it takes to receive permits. The DNR is in effect arguing that Michigan's small, local broadband providers should be discriminated against when it comes to trail access because some large corporations have agreed to pass along higher fees to their customers. That is the wrong policy for Michigan.

The primary reason given by the DNR attempting to justify excessive fees is that broadband networks will somehow increase the maintenance needs of rail trails. That is not correct. SB 499 requires broadband facilities to be placed underground and specifically prohibits the construction of new structures that would interfere with the use of trails. We believe SB 499 adequately compensates the DNR for its work during the installation of new broadband facilities – facilities that will not create new maintenance requirements in future years but will offer broadband services where they don't currently exist.

We have also heard that there are wetlands concerns and private easements that have to be taken into consideration. SB 499 does not authorize new incursions into wetlands, it simply allows the installation of fiber optic cables along existing trails. And SB 499 certainly does not change the fact that broadband providers and private land owners will continue to need to reach agreement on the use of private easements.

The current process that providers face has kept many companies from investing in new broadband networks because it is prohibitively expensive and time consuming. In one case, a broadband provider waited 10 months for a DNR permit as was required to pay \$39,000 to use just 12 miles of rail trail access. That meant residents and small businesses had to wait far longer than should be necessary and pay more for broadband services because of the DNR's policies.

In another case, a provider was planning on using a small section of trail in Van Buren County but had to drop its plans after facing excessively high fee and permit costs from the DNR. The provider ended up choosing a less efficient route that required more disruption of roads and additional material expenses. If SB 499 had been in place, the provider would have completed the project faster and been able to pass on the cost savings to its customers.

The fee and permit structure contained in SB 499 recognize that rail trails require far less regular maintenance than public road rights-of-way and are set accordingly. The fees have also been designated to directly support the rail trail system instead of being used by the DNR for other purposes.

The examples I've cited have sent a clear message to rural broadband providers that attempting to negotiate with the DNR isn't worth the effort. The only real objection being raised about this bill is that it doesn't extract enough money from broadband providers. Unfortunately, that kind of thinking has left some residential and business customers without viable broadband options. Senate Bill 499 puts an end to the current system and sends a much more positive message: if you want to invest in rural broadband networks, the State of Michigan won't stand in your way.

Our membership thanks you for your consideration of SB 499 and we ask for your support.