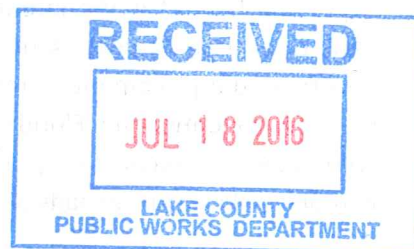


July 14, 2016

Jim Stivender, Jr.
Lake County Public Works Director
315 West Main Street
Tavares, FL 32778



RE: Proposed Mobilitie Utility Poles located in Public Right-of-Way

Dear Mr. Stivender:

Thank you for the time you and your department have spent reviewing Mobilitie proposed utility poles in Lake County, Florida (the "County"). According to discussions with and a letter dated June 16, 2016 sent to one of Mobilitie's Permitting Managers, Michael Nuckols, the County suggested that such installation would be regulated as a "monopole tower" and not allowed in its right-of-way. However, Mobilitie remains unclear as to the County's position in regards to its utility pole.

As a threshold matter, Mobilitie is not installing a cell tower-monopole. Mobilitie is a regulated telephone utility and communications service provider within the State of Florida by virtue of its certification from the Florida Public Service Commission ("FPSC") to provide Alternative Access Vendor services.¹ In particular, Mobilitie operates a hybrid transport network, which transports telephone services and data by utilizing both fiber and wireless backhaul solutions (imagine a fiber hub only this is wireless). In order for its network to operate, Mobilitie must install and maintain certain utility poles and equipment at specific locations at minimum heights. As a regulated telephone utility, Mobilitie is authorized under Florida state law to install its proposed utility pole in the County's right-of-way.²

Mobilitie acknowledges that Florida state law also authorizes the County to regulate the placement and maintenance of utility facilities in its rights-of-way pursuant to its police power. Specifically, the County may "prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining along, across, or on any road ... any electric transmission, telephone, telegraph, or other communications

¹ See Fla. Stat. § 350.111 (defining "regulated company" as any person holding a valid and current certificate from the commission under Chapter 364); See Fla. Stat. § 364.33 (stating that while the commission will no longer issue certificates of necessity or authority after July 1, 2011, those certificates existing will remain valid.)

² See Fla. Stat. § 362.01 (providing that "any ... telephone company chartered by this or another state ... may erect posts, wires and other fixtures for ... telephone purposes on or beside any public road or highway".)

services³ lines; poles lines; poles ... or other structures referred to in this section as the 'utility.'"⁴ At the same time, the Florida Legislature acknowledged "the unique circumstances applicable to providers of communications services, including ... the circumstances described in paragraph (e)" and explicitly expressed that "it is the intent of the Legislature that ... counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way."⁵ Evidently, the Florida Legislature even went so far as to acknowledge that "providers of communication services may provide similar services in a manner that requires the placement of facilities in municipal or county roads or rights-of-way."⁶

Nowhere in Section 337.401 did the Florida Legislature authorize the County to deny a "communication services provider" access to its rights-of-way. Mobilitie's facilities provide "communication services"; the essence of its hybrid transport network. To reiterate, these facilities are utility infrastructure that require to be installed in public rights-of-way in order for its network to operate at an optimal level for public use. As such, Mobilitie is entitled to the same nondiscriminatory and competitively neutral rights of access to rights-of-way as other communication service providers, including erecting its posts, wires and other fixtures beside any public road or highway.

Mobilitie requests the County to reconsider its position and promptly process its application, like it does for other utilities and communication service providers. Mobilitie looks forward to cooperating with the County in placing its utility infrastructure within its rights-of-way. Should you have any questions, please do not hesitate to contact me at my mobile phone (470) 755-8667 or by e-mail at roger.simpson@itbutility.com. Thank you for your time and commitment to enhancing your community.

Sincerely,



Roger Simpson
Director, Government Relations

³ See Fla. Stat. § 337.401(1)(a) (ascribing Chapter 202's meaning for "communication services" to § 337.401); See Fla. Stat. § 202.11(1) (defining "communication services" as "the transmission, conveyance, or routing of voice, data, audio, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereinafter devised, regardless of protocol used for such transmission or conveyance".)

⁴ Fla. Stat. § 337.401(1) (a).

⁵ Fla. Stat. § 337.401(3) (a).

⁶ Fla. Stat. § 337.401(3) (e).