



March 13, 2024

Chair Jennifer McEwen
Minnesota Senate, Labor Committee
1100 Minnesota Senate Building
St. Paul, MN 55155

Re: Senate File 4742 – Broadband Equity Access and Deployment

Dear Chair McEwen and Members of the Labor Committee,

The Minnesota Cable Communications Association (MCCA) represents cable companies who are proud to serve residents of Minnesota in every corner of the state, from Sjoberg’s in Thief River Falls, SCI in Hinckley and Midco in Fairmont. This year OBD will celebrate the 10th anniversary of its creation by the Legislature. And for 10 years, MCCA members have worked in strong partnership with OBD to create what is known nationally as the Minnesota Model. Through that model we’ve brought our state to the threshold of universal broadband service. The BEAD program provides a once in a generation opportunity to cross that threshold.

As will be elaborated in the testimony of our general counsel, Tony Mendoza, in the hearing today, SF4742 puts OBD in the proverbial “Catch 22” position. If prevailing wage is required on BEAD projects, the State will fail to meet its federal universal service mandate for \$652 million allocated by the federal government as part of the Broadband Deployment Equity and Deployment (BEAD) program administered by the National Telecommunications and Information Administration (NTIA). In addition, OBD will fail to meet the state’s 2026 universal broadband service goal set forth in statute. Whether or not you support prevailing wage as a policy matter is beside the point. It’s simply a question of math.

If the Legislature decides that paying prevailing wage on broadband projects is more important than achieving federal and state broadband universal service goals, MCCA has a number of specific questions about the bill which we would like to discuss with the authors and other affected stakeholders.

1. Are the references to “state” and “department” (DEED) funded projects in describing federal BEAD grant funding intentional? See Page 3, Line 15; Page 4, Line 28. Is this an implicit acknowledgement that the State may not lawfully impose prevailing wage requirements on BEAD because Congress did not do so, and because state law limits the application of prevailing wage requirements to state

funded projects? See Minn. Stat. §177.41 et seq. If so, which BEAD projects (if any) would the Bill apply to?

2. Is it the intent of the Bill that new prevailing wage and other labor requirements apply only to broadband construction workers or *all* employees of broadband companies (e.g. professional employees)? See p. 2, Lines 21-30 and Page 3, Lines 1-2.
3. Is it the intent of the bill to require any BEAD grant applicant to commit to the list of “industry workforce best practices” prospectively, even on 100% privately funded future broadband projects? See Page 4, Lines 1 and 2.
4. How will existing prevailing wage job classifications, which were not designed with the broadband in mind, apply to broadband workers? Will DOLI modify or expand the list of job classifications based on this Bill, if it is enacted into law?
5. Would the Bill *require* that all facilities within 10 feet of an existing underground utility must be located by hand, hydro excavation, or another accepted method? Such a requirement would be a dramatic departure from current law, and dramatically increase broadband construction costs. No such requirement applies to any other public utility under the current Gopher State One Call (GSOC) law. See Minn. Stat. Ch. 216D.
6. Currently, underground construction damage incidents are under the jurisdiction of the Minnesota Office of Pipeline Safety (MN-OPS). What is the thinking behind shifting regulatory jurisdiction over underground damage incidents to the Public Utilities Commission (PUC)? Why just for telecommunications and telephone providers, and not all public utilities? Why does the Bill seek to take this small slice of regulatory jurisdiction over underground construction safety away from MN-OPS? MCCA has been working very hard with MN-OPS and Representative Kraft over the summer to make improvements to Chapter 216D. This shift of regulatory responsibility would move issues around underground safety from an experienced regulator to the PUC which has no experience or expertise on underground construction safety. See Page 6, Lines 15-27.

Sincerely,

Melissa Wolf

Executive Director, Minnesota Cable Communications Association