



Does Senate Bill 637 Affect Franchise and PEG Fees? The Myths and The Facts

PROTEC and Michigan NATOA response to FALSE claims by industry about SB 637, including an explanation of the correlation between SB 637 and Cable Franchise fees.

1. Industry will tell you that SB 637 does not put Cable franchise fees at risk and connecting the two is an attempt to confuse people.

FALSE: The link between SB 637, other similar state legislation and identical FCC action favoring telecoms is directly related to the recent FCC cable franchise proceeding and specifically requested by the cable industry to cure *“the disparate treatment of cable operators as compared to other broadband providers”*.

Cable industry letter to the FCC June 11, 2018:

<https://ecfsapi.fcc.gov/file/10611913521153/061118%2017-84%20NCTA%20-%20Infrastructure%20Ex%20Parte.pdf>

SB 637 also gives cable a freebie for use of the Right-of-Way (ROW) for Cable’s own wireless equipment.

2. Industry will tell you that these are “small” cells.

FALSE: These small cells are not small. These cells are **31 cubic feet** of “wireless facilities” per provider, per pole. They are the size of an industrial refrigerator. The bill allows wireless providers to attach these ‘small cells’ and related equipment (31+ Cubic Feet per provider per pole) to streetlights or lampposts, 3rd party poles such as DTE/Consumers poles and new poles.

3. Industry will tell you that there were dozens of meetings held with workgroups and local governments all of whom were represented.

FALSE: Ask which particular local governments were at the table. Ask which technology professionals were at the table other than industry. Individual local governments, PROTEC and Michigan NATOA were not invited to the table to draft the bills or amendments.

4. Industry will tell you that SB 637 will pave the way for future deployment of next generation 5G wireless technology.

FALSE: There is NO obligation for buildout in SB 637. There is no requirement in SB 637 for any provider to “provide” any “future deployment of next generation 5G wireless” or any other technology – anywhere – to anyone - ever, in exchange for this give away. Industry wants the benefits of “utility” status with none of the obligations, such as build out minimums, service standards and at least some assurances on rates in exchange for this give away of the public ROW.

FALSE AGAIN: Industry reported to Wall Street that they have **NO intention** of doing anything different in light of these ROW giveaways.

Verizon Communications Inc. Q3 2018 Earnings Call Transcript (Oct. 23, 2018), *available at <https://seekingalpha.com/article/4213544-verizon-communications-inc-vz-q3-2018-results-earnings-call-transcript?part=single>* “*...we were glad to see the FCC rules around the small cell adoption, doesn't necessarily increase the velocity that we see. Our teams have been engaged with municipalities across the country on getting permits to put up small cells whether for 4G or 5G. Certainly like the fact that they are providing a little more guidance for how quickly that should happen.*”

But I don't see it having a material impact to our build out plans. We are going as fast as we can. And while the federal level rules are helpful it is still a very local activity municipality-by-municipality. So a lot of good work going on there.”

Crown Castle International Corp. Q3 2018 Earnings Call Transcript (Oct. 18, 2018), *available at <https://seekingalpha.com/article/4212546-crown-castle-international-corp-cci-ceo-jay-brown-q3-2018-results-earnings-call-transcript?part=single>*. “*I don't see it having a material impact to our build out plans.”*

“I wouldn't look at that and assume that we're going to see a material change in our 18 to 24-month deployment cycle. In fact, we don't believe that will result.”

5. Industry will tell you they have to go in the ROW to build out their 5G system.

FALSE: They can go on private property. Why do they want to avoid that? Because they do not want to pay market rent to the private sector. They want to enter the public ROW virtually FREE. Then they want to charge market rate prices to other providers as well as to their customers: Our local residents.

Industry claims the allowed fees are “the Best”.

FALSE: SB 637 sets the standard fees for public ROW access and attachment to government owner structures at \$20 per year. **These fees are 1% of market rates in states NOT passing such legislation.**

FALSE AGAIN: The right-of-way is the public right-of-way; NOT the telecommunication company's right-of-way. Michigan Constitution Article 7 Section 29 provides absolute franchise rights to local communities for anyone seeking to use Rights of Way, in order to assure that taxpayer property is not given away at his and her further expense.

See: [http://www.legislature.mi.gov/\(S\(2mcx5oczcyy1nugjzfv225of\)\)/mileg.aspx?page=getobject&objectName=mcl-Article-VII-29](http://www.legislature.mi.gov/(S(2mcx5oczcyy1nugjzfv225of))/mileg.aspx?page=getobject&objectName=mcl-Article-VII-29).

6. Industry will tell you SB 637 is not a giveaway.

FALSE: SB 637 is a simple rent negotiation. Industry wants to occupy our public ROW - rent free. We need to stand our ground and demand fair market value rent so our residents don't end up subsidizing the telecom industry.

Established in 1996, **PROTEC** (The Michigan Coalition To Protect Public Rights-Of-Way) was formed by several Michigan cities interested in protecting their citizens' control over public rights-of-way, and their right to receive fair compensation from those industries that use public property.

Michigan NATOA is the state Chapter for national NATOA. Founded in 1980, NATOA is the premier local government professional association that provides support to members on the many local, state, and federal communications laws, administrative rulings, judicial decisions, and technology issues impacting the interests of local governments. Michigan NATOA actively analyzes and addresses emerging issues in areas such as local government communications and internet policy; broadband planning best practices; cable franchising; wireless zoning; new technology initiatives and advancements; and operation of public, education and government (PEG) access channels.