



January 23, 2023

Honorable Marvin A. Blyden
Chairperson, Committee on Housing, Transportation and Telecommunications
35th Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

RE: LEGISLATIVE HEARING ON JANUARY 24, 2024 - REVISED

Dear Senator Blyden:

Thank you for the opportunity to testify before the Committee on Housing, Transportation and Telecommunications to provide updates on infrastructure projects, telecommunications and federal broadband funding. Unfortunately, due to scheduling conflicts, I am unable to attend as stated in my previous letter dated January 9, 2024. While I recognize the importance of hearings such as this, my previously scheduled engagements cannot be moved and there is no other appropriate person available to testify on the subject.

Considering the importance of the subject matter, I wanted to offer comments specifically on the matter of the undergrounding efforts being undertaken by Liberty VI. The Department of Public Works (DPW) is responsible for permitting all excavation and undergrounding efforts taking place in roads and public rights of way. DPW actively participates in utility coordination efforts with all government and private entities with undergrounding projects. Specific to Liberty VI, DPW meets with them weekly and has invited them to participate in bi-weekly meetings with all utilities. Essentially, Liberty VI can meet with DPW representative six times monthly in addition to requested meetings between their leadership and myself.

To date, DPW has approved 15 permit packages for Liberty VI - 11 for the St. Croix district and 4 for the St. Thomas/St. John district. Currently, there are approximately 10 applications pending review for the St. Croix district and one package for the St. Thomas/St. John district. On St. Croix, Liberty VI has several approved large permit packages. We recently returned over 10 packages that were reviewed and sent back for revisions. Just like any utility, government or private, DPW is committed to the timely review and approval of all excavation permits. However, it is important to note that prior to the Liberty VI undergrounding efforts, DPW had no experience with microtrenching or a policy for such. Moreover, our policy for undergrounding efforts has been to require trenching to be done at least 24 inches or below the surface in the right of way. Microtrenching calls for lines to be buried within eight to twelve inches from the surface. In fact, many jurisdictions across the

country limit microtrenching and have strict requirements. Most, if not all states, do not allow any microtrenching on highways. Caution must be exercised when permitting microtrenching to avoid future conflicts and costly relocations.

Given the importance of the project, my staff and I make ourselves reasonably available to Liberty VI to work through inherent problems of Phase 1 and the continued issues with Phase 2. Based on some of the inconsistencies we are seeing, there seems to be a disconnect between the project development team and the on-island "boots on the ground" including contractors, subcontractors and project superintendents. There have been instances where crews have done work in unpermitted, unapproved areas. There are instances in both Phases 1 and 2 where a lack of utility coordination resulted in cuts to VINGN infrastructure and VIYA infrastructure. In one instance, an excavation package was submitted for Main Street which is a clear "no excavation zone" on St. Thomas as we recently completed a \$13M rehabilitation.

My staff and I have been very vocal about the need for Liberty VI to address the Phase 1 deficiencies that exist such as loose and faulty vault covers, failing trench restoration across the Territory and inadequate striping particularly on St. Croix. There also must be an acknowledgment and acceptance that Liberty VI honor all agreements and stipulations inherited with the acquisition of Broadband VI and their assets. This has been a major sticking point between DPW and Liberty VI.

Recognizing that DPW does not have adequate in-house staff to perform daily inspections, we implemented a quality assurance and quality control (QA/QC) plan with Liberty VI that includes third-party inspectors paid for by Liberty VI. A revised QA/QC plan was submitted to DPW on November 14, 2023 requiring additional considerations and revisions. That revised plan is still pending our comments and we have been actively meeting with Liberty on necessary revisions. However, we are still observing ongoing issues with adherence to approved plans and specifications. The inspection reports submitted to DPW verify the disconnect that exists between the submitted QA/QC plan and field construction. Field inspectors lack the enforcement and "teeth" necessary to ensure field staff adhere to DPW approved plans and specifications.

My team and I have an obligation and responsibility to residents to ensure safe transportation infrastructure. All permits are reviewed and scrutinized through this lens. While we are committed to working with Liberty to issue approved permit packages, safety and fully restored roadways will always be our priority. Thank you again for the opportunity to appear before the committee and I apologize for any inconvenience my absence may cause. As always, please feel free to reach out to me directly if you have any questions or concerns.

Sincerely,



Derek Gabriel
Commissioner

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