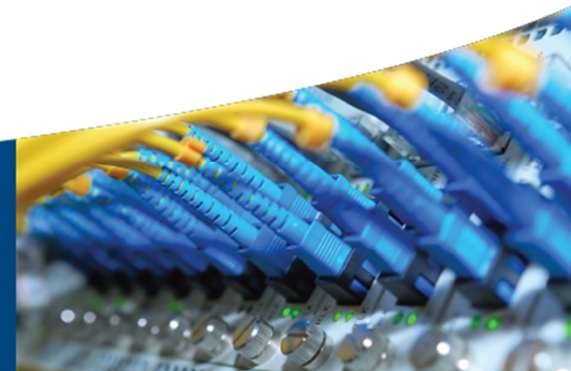


WATOA ANNUAL SPRING CONFERENCE

CHELAN, WA
APRIL 28-29, 2016

Wireless in the Public Rights of Way

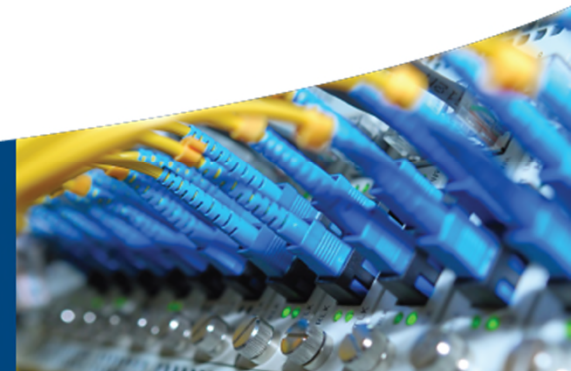
Gail A. Karish
Best Best & Krieger LLP



DAS and Small Cells

FCC/industry estimates:

- More than 37 million small cells will be deployed by 2017.
- 16 million DAS nodes will be deployed by 2018.
- One study projects that aggregate small-cell capacity will overtake macrocell capacity by 2016-2017.
- Source: <http://nathpo.org/wp/wp-content/uploads/2015/09/7-NATHPO-FCC-Summit-DAS-Small-Cell-FINAL.pdf>
- FCC's rules assume wireless in PROW will be small and unobtrusive



NextG DAS Diagram

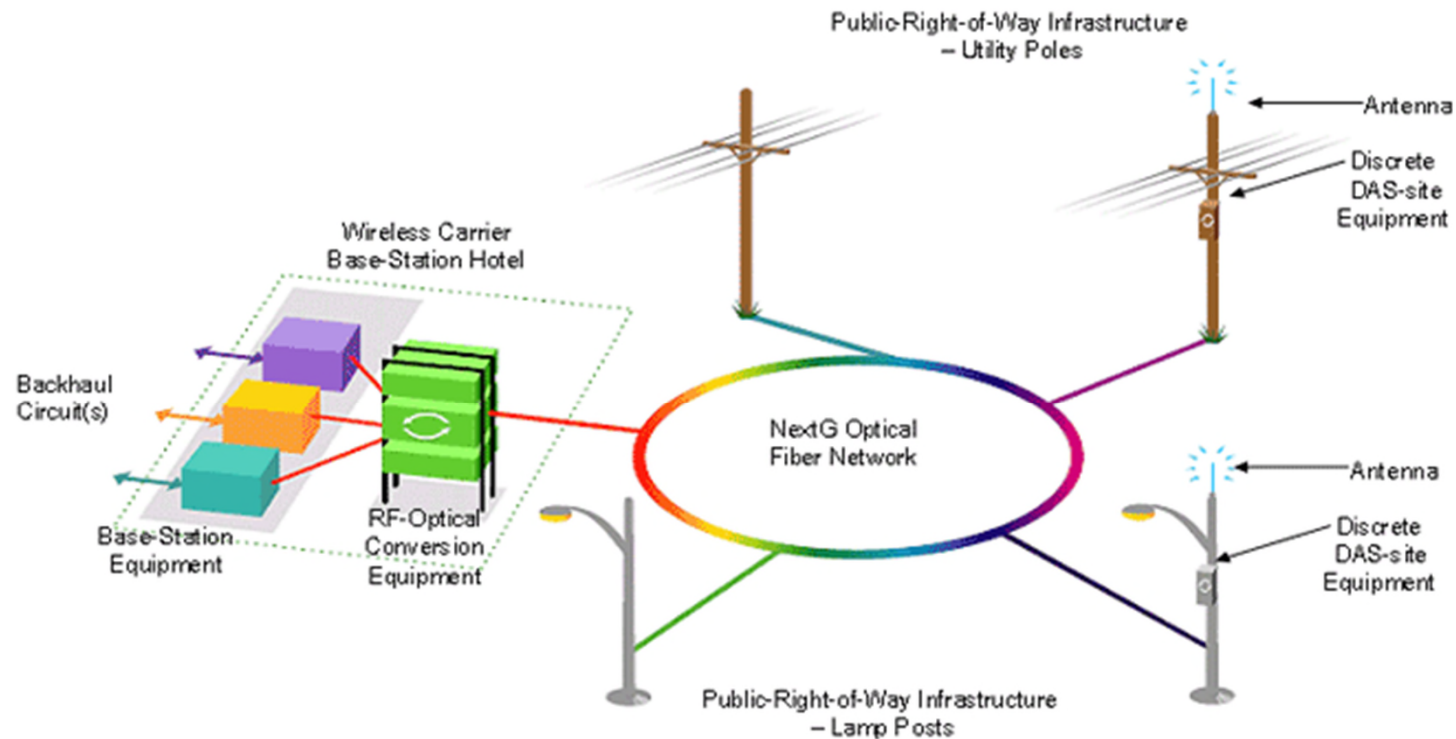
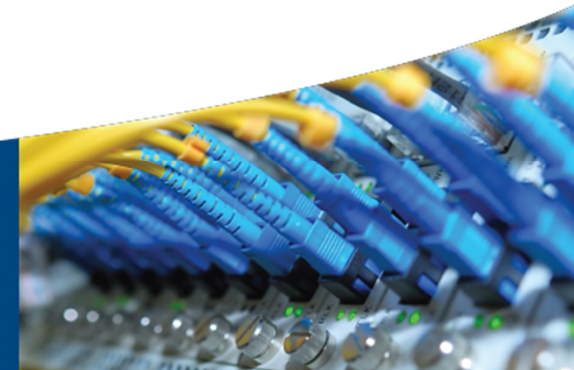


Figure 2: Distributed Antenna System



Existing



view from Taylor Street looking south at site
MTAPOLY-VZW Node 148
99 Aladdin Terrace, San Francisco, CA
Photosims Produced On 1-28-2015

Proposed



Proposed Extenet
Antennas & Equipment

AdvanceSim 
Photo Simulation Solutions
Contact (925) 202-8507



Telecommunications Law



Wireless in PROW

Applicants

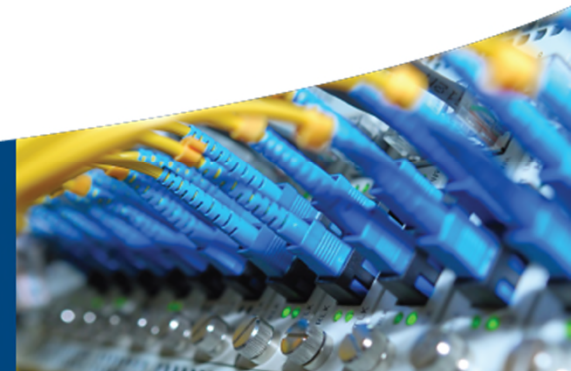
- May or may not be wireless carriers
- May have unfamiliar (mysterious?) names
 - Utility Pole Authority
 - Interstate Transport and Broadband
 - Transmission Network
- May not have required licenses
 - May *claim to be* state-authorized telco with CPCN
 - May not have authorizations needed to install or operate wireless facilities
 - May not have franchise



Wireless in PROW

Applications

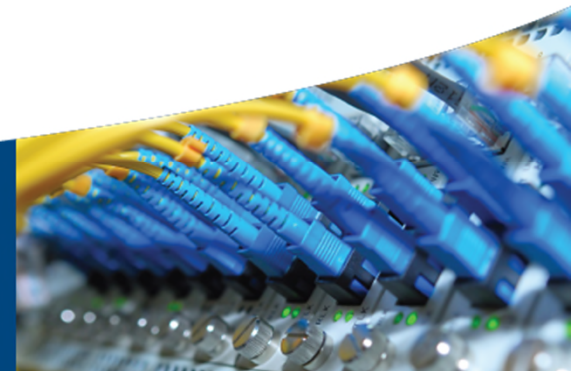
- May go to Public Works or Engineering, not Planning
- May not use your forms or online systems
- May show up in the snail mail



Wireless in PROW

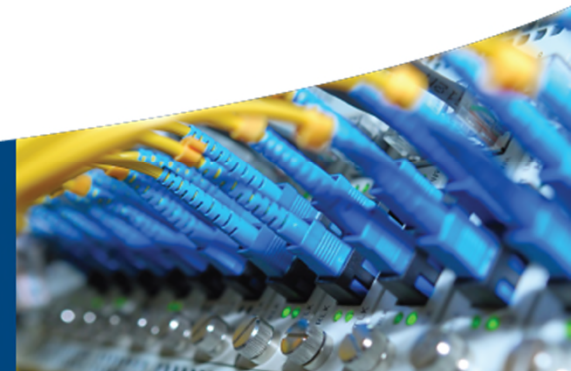
Projects

- May not plan to use “utility pole” to string their wires
- May not have any immediate plans to place antennas either (no customers)
- May be designed to accommodate *future* antenna and equipment installations
- May be planning wireless or wireline backhaul (or both) and wireline may be underground not above ground



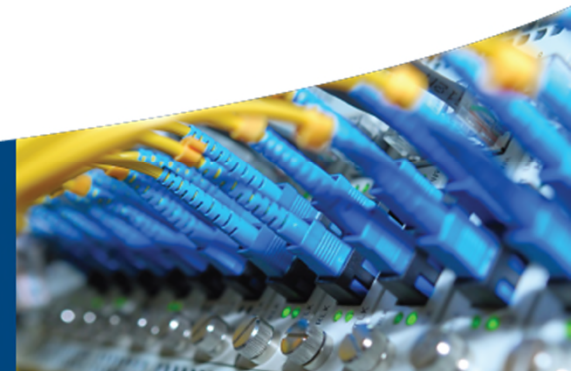
Issues Raised

- Has an application been filed?
- Is this a utility pole or a wireless facility?
- Do FCC wireless shot clocks apply?
- Does applicant have to establish need?
- Can you prevent piecemeal requests?
- ***Verizon v. Town of East Fishkill (S.D.N.Y. 2015)***
 - Court held that “speculation based on what may or may not happen in the future [regarding Section 6409(a) expansion rights] cannot provide substantial evidence for denying [permit application].”



SUMMARY

- *Educate* – planning and public works
- *Update* – codes, application forms
- *Get Advice* – many of these issues involve a careful analysis of interplay of federal, state and local law



Thank You



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