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Resources and Development Committee tables legislation to grant right-of-way to develop optic telephone cable within the Chichiltah Chapter

WINDOW ROCK – On Tuesday, the Resources and Development Committee discussed Legislation No. 0051-14, approving a right-to-way to Century Link LLC, to construct, operate, and maintain a fiber optic telephone cable within New Mexico State Road No. 602, on approximately 2.57 acres of Trust Lands located within Chichiltah Chapter.

Pursuant to 2 N.N.C. Section 501 (B)(2), the RDC has the authority to grant right-of-way on Navajo Trust Land and unrestricted (fee) land.

One portion of the legislation in which Century Link LLC requests that all rent and fees be waived because the improvements will benefit the Navajo Nation, drew skepticism from RDC members.

“We’ve granted right-of-ways to 50% of our land, free of charge and we keep doing this and other tribes take Navajo Nation for granted. If we waiver this, we just give them everything. We should say that we won’t waive these fees, but we reserve the cost of it, for fees that [Century Link] are supposed to pay and credit that to a development that benefits the Navajo people,” stated RDC member Council Delegate Leonard Tsosie (Baca/Prewitt, Casamero Lake, Counselor, Littlewater, Ojo Encino, Pueblo Pintado, Torreon, Whitehorse Lake).

According to a letter addressed to Howard Draper, Program and Project Specialist with the Navajo Land Department, the new telephone cable will serve the local residences, Chichiltah Chapter, Chichiltah BIA School, Breadsprings Chapter, and the Vanderwagon Fire Department.

“I’m wondering why the Navajo Tribal Utility Authority is not doing the project out there. They are already doing fiber optic lines in Shiprock. We charge them. We charge them a fee and that’s our own Navajo Nation company. And this company [Century Link], wants to put up their line and they charge everybody else and they have other companies that piggy-back off of them,” stated RDC chair Council Delegate Katherine Benally (Chilchinbeto, Dennehotso, Kayenta).

According to the Right-of-Way Terms and Conditions, the right-of-way would be in effect for 20 years at a cost of approximately \$25,000 to be paid in full to the Controller of the Navajo Nation.

“If we look at this legislation and pass it as it is, we will be wavering that \$25,000 and it will benefit the Century Link LLC rather than the Navajo people. The improvement that they are calling for is minimal,” stated RDC member Council Delegate Roscoe Smith (Crystal, Fort Defiance, Red Lake, Sawmill).

According to a Final Environmental Assessment by Tierra Right-of-Way Services, a third party consultant, Century Link is requesting that the BIA Zuni Agency and the Navajo Nation grant an easement across tribal lands so that the project may be constructed.

“The BIA told us from early on that New Mexico Department of Transportation wanted the Nation’s consent for issuing a permit and they felt like Century Link could not proceed with the project without the Nation’s consent,” explained Katherine Grounds, attorney for the Navajo Nation Department of Justice.

In the letter addressed to Mr. Draper it states, “the Zuni Tribal Government and the New Mexico State Highway Department have been notified and pending approval from both entities.”

“So, the permission from New Mexico is not final yet. And we don’t even have the final approval yet from NMDOT. I’m wondering how they are going to work this because you have a right-of-way within a right-of-way which creates all sorts of legal scenarios,” added Delegate Tsosie.

RDC members agreed to table the legislation to modify the Terms and Conditions that Century Link has provided and also to seek approval from certain entities so that the project can proceed.

RDC members tabled Legislation No. 0051-14 with a vote of 5-0. The RDC serves as the final authority for the legislation.

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