



MONTANA
TELECOMMUNICATIONS
ASSOCIATION

June 15, 2011

Mr. David W. Cook, Bureau Chief
Building Codes Bureau
Montana Department of Labor and Industry
301 South Park Avenue/PO Box 200517
Helena, Montana 59620-0517

RE: Low Voltage Permitting

Dear Mr. Cook,

The Montana Telecommunications Association (“MTA”) respectfully submits the following comments as a follow-up to our oral comments MTA presented on May 16, 2011, at the Low Voltage Permitting Meeting you convened in Helena.

MTA represents large and small, commercial and cooperative telecommunications service providers serving over 90% of wireline telecommunications consumers. These companies invest tens of millions of dollars annually in telecommunications network facilities, including installation and maintenance of low voltage wiring. They employ workers who are well-trained in a variety of skills, including proper installation of low voltage wiring.

MTA maintains that adoption of any low voltage permitting and inspection ordinance or other requirement is not authorized by law, notwithstanding Missoula’s adoption of just such an ordinance. Moreover, a low voltage permitting and inspection requirement may delay significantly the installation of telecommunications facilities, overburden local permitting/inspection operations, and increase the cost of telecommunications services at a time when telecommunications providers are investing substantial time and effort in the deployment of advanced broadband facilities to Montana’s commercial and residential consumers.

Statutory Exemption

Montana statute is clear. Title 50 (Health and Safety), Chapter 60 (Building Construction Standards) Part 6 (Electrical Installations) specifically exempts low voltage installations from permitting and inspection requirements.

50-60-602. Exceptions. (1) This part does not apply to: ...

(d) the installation, alteration, or repair of low-voltage electrical signal and communications equipment and optical fiber cable.¹

The Department of Labor and Industry (“Department”) confirmed this exemption in its notice of Amendment and Adoption electrical requirements, inspection fees and new definitions as published in the Montana Administrative Register of July 29, 2010. In recognizing the statutory exemption from local permitting and inspection requirements, the Department noted that any changes to this exemption must be attained through legislative, not administrative, process.

The department recognizes the request to include certain types of low-voltage installations into the original or subsequent permitting of projects, in order to have the opportunity to inspect those installations. Currently, the Montana Code Annotated, not these rules, qualifies some exemption to low-voltage installations. Therefore, any changes to such exemptions must be achieved via the legislative process, not through administrative rulemaking.²

Evidence Lacking in Justifying Permitting/Inspection Requirements

Despite the statutory exemption, at least one Montana city has adopted a low voltage permit and inspection ordinance, and other cities may be considering similar action. Missoula, for example, recently adopted an ordinance which specifically states that it is a “Low Voltage Electrical Permit Application” requiring application for a permit, payment of proper fees, and inspection of low voltage installations. At the Low Voltage Permitting Meeting on May 16, some parties attempted to justify establishing permitting and inspection requirements by arguing that they’re not proposing “low voltage” requirements, *per se*, but instead are proposing to regulate low voltage installations through their generic “building code” authority. This is a distinction without a difference. Low voltage installations, no matter how one labels them, are exempt from local permitting and inspection requirements.

¹ 50-60-602 MCA.

² In the matter of the amendment of ARM 24.301.131 incorporation by reference of international building code, 24.301.138 and 24.301.139 fees, 24.301.142 and 24.301.146 building code modifications, 24.301.171 incorporation by reference of international existing building code, 24.301.172 incorporation by reference of international mechanical code, 24.301.173 incorporation by reference of international fuel gas code, 24.301.301, 24.301.351, and 24.301.371 plumbing requirements, 24.301.401, 24.301.402, 24.301.411, 24.301.421, 24.301.431, 24.301.441, and 24.301.451 electrical requirements, 24.301.461 inspection fees, 24.301.491 refunds or credits, and the adoption of NEW RULE I definitions. Notice of Amendment and Adoption. Montana Administrative Register, 14-7/29/10, p. 1734.

MTA members employ skilled technicians who install and maintain inside and outside network facilities. There appears to be a paucity of evidence demonstrating that the work of these technicians necessitates a low voltage inspection/permitting requirement. Moreover, at the Low Voltage Permitting meeting, Blackfoot Communications noted that they'd called the Missoula fire department prior to Missoula's issuance of the city's ordinance requiring permitting and inspection of low voltage installations. The Department was unable to offer instances of low voltage wiring causing a fire hazard.

Requiring low voltage permitting and inspection (notwithstanding the statutory exemption) appears to be a solution in search of a problem. And if there were a problem, a generic low voltage permitting/inspection requirement constitutes regulatory overreach.

Permit/Inspection Requirements Will Delay Installation and Increase Consumer Costs of Telecom Network Upgrades and Maintenance

Telecommunications providers such as MTA's members are continually installing low voltage telecom wiring in customer locations as we build out broadband communications networks, and install new facilities or maintain existing facilities. Filing, paying for, and waiting for permits and inspections necessarily will add time and expense to such installations. In remote rural areas of the state as the process of filing for a permit and waiting for an inspector may take unreasonably long. And in areas where there may be available inspectors, notwithstanding the necessary delay and expense of filing for permits and waiting for inspection, the volume of permit applications and inspection requests may overwhelm existing resources.

Conclusion

Montana statute exempts low voltage installation from inspection and permitting requirements. Even without the statutory exemption, MTA does not believe that sufficient evidence has been presented to justify imposition of permitting/inspection requirements on low voltage wiring. Finally, such permitting/inspection requirements will only add delay, expense and potentially higher consumer prices associated with deployment of telecommunications services to Montana's business and residential consumers.

Respectfully submitted,

/s/ Geoffrey A. Feiss

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