

September 25, 2018

The Honorable Ajit Pai
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Commissioner Pai,

We write today on behalf of New York State residents concerned with the effects of the proposed *Streamlining Deployment of Next Generation Wireless Infrastructure Declaratory Ruling and Third Report and Order* (WT Docket No. 17-79 and 17-84). While we fully support efforts to expedite the deployment of advanced technology like 5G, we are concerned that efforts to reduce local control over critical aspects of the cell siting process, like the fees, undermines the ways in which local governments work with broadband service providers to implement wireless infrastructure and deploy new broadband technologies in a manner that negatively affects consumers. Furthermore, we believe that an effective rollout of 5G technology will come as a result of a collaborative approach that considers the needs of all stakeholders and ensures that all Americans benefit from the improved technology. Given the harm that the rulemaking could have on consumers and localities in New York and across the nation, and its impact on the digital divide, we strongly urge the Commission to withdraw the proposed order and reconsider its approach to implementing universal 5G.

Cities and localities are uniquely situated to assess the needs of the residents in their communities. Attempts to constrain their ability to negotiate agreements that meet those needs can derail efforts to promote innovation. Under the current system, localities throughout the country have used their flexibility to negotiate innovative agreements that foster technological equity, and provide funding to local programs that work to bring broadband to underserved communities. For example, in New York, New York City is a partner of the Cloud Enhanced Open Software Defined Mobile Wireless Testbed for City-Scale Deployment (COSMOS) to design, develop, and deploy the next generation of wireless technologies and applications. This project brings startups into West Harlem that help build smart-city applications to make cities safer and more resilient, as well as provides hands-on training to West Harlem students and residents. We are deeply concerned that this order will undermine New York City's ability to license the use of city assets for this testbed or engage in similar research partnerships.

Furthermore, the small cell fee caps proposed by the order are also troubling. As you know, the proposed order would cap the rate of monthly pole rentals for small cells at \$270, a rate which is far below the market value in many areas of the country – the result of which forecloses the ability of municipalities to reach agreement with service providers to fund local programs working to achieve digital equity and harms competition. While this order aims to accelerate the rollout of broadband technology, nothing in this rulemaking ensures that savings from the fee caps will go towards improving broadband in rural or economically challenged areas. By hamstringing localities' abilities to encourage investment in unserved areas in their communities, the rule will ultimately lead to further entrenchment of the digital divide in communities throughout the country.

New York City already offers to lease poles in underserved parts of the City at a rate of \$12 a month, and many large service providers still refuse to deploy or improve existing broadband technologies like 3G or 4G. If \$12 a month is cost prohibitive, it seems unlikely that lowering the caps in

areas service providers operate will further incentivize telecommunications providers to build out 5G infrastructure in both unserved and underserved communities. While this order would expedite service provider's abilities to install small cell facilities in cities where they currently operate, it will not bring about the deployment of broadband to the nearly 40% of the country that is operated by rural local exchange carriers. If localities are already struggling to encourage deployment, it is questionable to expect providers will feel inclined to invest in areas they currently see as unprofitable, especially without an obligation.

This order is an example of federal overreach that serves to benefits the wants of industry over the needs of American communities, and leaves communities in no better position to bring broadband internet technologies to the underserved. We urge the FCC to re-examine its effort to deploy 5G across the nation, and work to meet the needs of both industry and local stakeholders, so that Americans gain access to the most innovative and equitable 5G system our country can create. Thank you for your serious consideration of this request.

Sincerely,



Charles E. Schumer
United States Senator



Kirsten Gillibrand
United States Senator



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

December 27, 2018

The Honorable Charles E. Schumer
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Schumer:

Thank you for your letter regarding Commission efforts to modernize our wireless infrastructure regulations. Our wireless infrastructure rules have been a poor fit for the 5G networks of the future, and our efforts to unleash spectrum for consumer use will be meaningless without the physical infrastructure needed to bring next-generation services to the American people. That's because 5G networks will not depend on a few large towers but on numerous small cell deployments—deployments that are only beginning.

The Telecommunications Act of 1996 mandates that we act to ensure a pro-competitive, de-regulatory national policy framework to accelerate this process. That's why we acted earlier this year to modernize our regulations and make the federal regulatory review process for wireless infrastructure 5G less onerous.

Many states and localities have similarly taken positive steps to reform their own laws so that their citizens can benefit from 5G. And I applaud municipalities that have prioritized mobile broadband deployment and recognized a streamlined process is necessary for 5G.

But in too many places, local regulations continue to impede necessary build-out. Accordingly, we took action in September to address local regulations that are inconsistent with federal law. Exorbitant fees on 5G deployment effectively operate as taxes that slow down deployment there and jeopardize the construction of 5G networks elsewhere. Accordingly, we set guard rails to ensure cities can recover their costs but not discriminate against new deployments. On a bipartisan basis, we also set reasonable shot clocks tailored to small wireless facilities while respecting the need for longer timelines when dealing with 200-foot towers. And we recognized the role that reasonable municipal regulations can play in ensuring the aesthetic character of a community. I believe the rules we adopted strike a reasonable balance between deployment and appropriate regulatory review and will help ensure that American leadership in 5G.

As with all of our decisions, we reviewed a broad range of comments and listened carefully to the concerns of stakeholders. We also included your correspondence in the record of this proceeding. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, reading "Ajit V. Pai", is positioned above the printed name. The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Ajit V. Pai



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United States Senate
478 Russell Senate Office Building
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