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DATE: October 18, 2019

TO: Federal Communications Commission

RE: Proceeding 19-270 - Petition of WISP Seeking Declaratory Ruling that City of Fountain Valley's Denial of a Conditional Use Permit allowing Operation of Wireless Facilities is Precluded By the Commission's OTARD Rule

I write to the FCC in full support of WISP's Petition for a Declaratory Ruling. According to the Petition, the undisputed facts show that WISP originally installed facilities (tower structure and antennae) that were used to deliver internet service to subscribers within the Slater Avenue Building. These facilities fell under the OTARD rules, and are exempt from most (or all) City ordinances and requirements, including the City's Wireless Communications Ordinance's stealthing or Conditional Use Permit requirements. The City's enforcement of its CUP and Wireless Communications Ordinance on equipment that is protected by the OTARD rule is illegal.

Additional low-power unlicensed radio equipment was subsequently attached to the existing tower structure for the purpose of extending the network to additional subscribers outside of the Slater Avenue Building. WISP's installation of additional radio equipment with substantially similar physical attributes as the existing radio equipment should not be excluded from protections under OTARD.

I agree with the Petition's request that all City enforcement activities shall be on hold while this Petition is still open. WISP should not be penalized, financially influenced, or at risk of any other enforcement actions by the City while it is actively seeking FCC clarification and a ruling on the matter. Finally, City enforcement shall be on hold pending the outcome of the current FCC Notice of Proposed Rulemaking, Updating the Commission's Rule for Over-the-Air Reception Devices (Proceeding 19-71).

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