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Wyoming Department of Transportation

"Providing a safe, high quality, and efficient transportation system"

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William T. Panos
Director

March 8, 2017

Commission's Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A35
Washington, DC, 20554

Attention: WT Docket No. 16-421, Comment Sought on Streamlining Deployment of Small Infrastructure by Improving Wireless Facilities Siting Policies: Mobilitie, LLC, Petition for Declaratory Ruling

Reference: Wyoming Department of Transportation comments on WT Docket No. 16-421

The Wyoming Department of Transportation (WYDOT) thanks the Federal Communications Commission (FCC) for the opportunity to provide comments in response to this notice. In this docket, FCC has requested comment on the petition of Mobilitie, LLC, seeking declaratory ruling on possible streamlining for deployment of wireless communications appurtenances, including along highway rights of way.

Summary Statement:

The Wyoming Department of Transportation contends that existing federal laws, FCC rulings, Wyoming state laws, WYDOT rules and regulations, and WYDOT procedures adequately address the provisions of Sections 253 and 332 of the Communications Act within the State of Wyoming relative to placement of telecommunications equipment within highway rights of way. Further declaratory judgment concerning telecommunication facility placement in these rights of way is unnecessary as the Communications Act grants states authority to decide whether to permit right of way use and determine appropriate and safe right of way locations of telecommunication utilities.

Comment Discussion

The primary federal telecommunication law sections at issue in the *Mobilitie* petition, 47 USC 253(b) and 47 USC 253(c), provide clear authority for states to "protect the public safety and welfare" (47 USC 253[b]) and affirm that "nothing [in this section of telecommunications law] affects the authority of a [s]tate or local government to manage the public rights of way" (47 USC 253[c]). Taken together, these provisions provide WYDOT authority to manage placement of telecommunications within Wyoming highway rights of way.

In accordance with 47 USC 253, 23 CFR 1.23, and state law (W.S. 1-26-813), WYDOT allows telecommunications facilities and other public service utilities placement in highway rights of way when they can be permitted **safely** and appropriately. After determining whether an encroachment violates the

“clear zone,” in which obstructions are not generally permitted, and whether, outside the “clear zone,” utility placement interferes with highway or traffic safety or otherwise impairs highway use, WYDOT has a process to accommodate utility encroachment. WYDOT considers that this process functions as quickly and as smoothly as practicable to allow the agency adequate time to review the safety and traffic engineering issues involved before issuing permits.

In conclusion, WYDOT contends that further declaratory ruling concerning placement of telecommunications facilities within highway rights of way is wholly unnecessary since current federal telecommunications and other federal laws and regulations, as well as state law and administrative rule and procedures in the Wyoming instance, provide authority for states to determine, for safety or other purposes, whether and how to allow telecommunications utility placement along highway rights of way.

The Wyoming Department of Transportation thanks the FCC for the opportunity to comment in this docket and hopes that these comments, as well as those of other state departments of transportation and the American Association of State Highway and Transportation Officials (AASHTO), are duly considered as the Commission determines possible further action.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. T. Panos', is written over a horizontal line.

William T. Panos
Director