

July 17, 2018

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

**Re: Accelerating Broadband Deployment, GN Docket No. 17-83; Accelerating
Wireless Broadband Deployment by Removing Barriers to Infrastructure
Investment, WT Docket No. 17-79; Reassessment of Federal Communications
Commission Radiofrequency Exposure Limits and Policies, ET Docket No. 13-84**

Dear Ms. Dortch:

On July 16, 2018, the undersigned, along with Hans Riemer, Council President, Montgomery County, Thomas Heyboer, Deputy Chief of Staff to Council President Riemer, and Mitsuko Herrera, ultraMontgomery Program Director; Nancy Werner, General Counsel for the National Association of Telecommunications Officers and Advisors; Kevin McCarty, Assistant Executive Director for Transportation Issues for The United States Conference of Mayors; and Gerry Lederer, outside counsel for Montgomery County, met with Commissioner Brendan Carr and Will Adams, Legal Advisor.

During the meeting, we discussed the ongoing concerns of local governments that have been raised in comments previously filed by NATOA, USCM, NLC, Montgomery County as a member of the Smart Communities and Special Districts Coalition, and individual jurisdictions that are members of each of the above-named organizations. Each of these filings have cautioned the Commission against local preemption as a way to expedite deployment of small cell wireless infrastructure.

We discussed the great desire of local governments to close the digital divide. American communities want the latest broadband infrastructure to attract businesses and retain residents. Many cities and counties are already actively engaged with neighboring jurisdictions and their wireless industry partners to plan for the safe, efficient, and appropriate deployment

2018 OFFICERS

President
Mark Stodola
Mayor
Little Rock, Arkansas

First Vice President
Karen Freeman-Wilson
Mayor
Gary, Indiana

Second Vice President
Joe Buscaino
Councilmember
Los Angeles, California

Immediate Past President
Matt Zone
Councilmember
Cleveland, Ohio

**Chief Executive Officer/
Executive Director**
Clarence E. Anthony

Deputy Executive Director
Antoinette A. Samuel

of small cell infrastructure. For that reason, we urged Commissioner Carr not to pursue a preemptive approach for pending rulemaking on wireless infrastructure deployment.

We delineated for Commissioner Carr the important difference between the various fees that may be charged by local governments when they are exercising their police power versus authorizing private use of public property. Local governments may, under their police powers, require permits that establish, for example, the time, place and manner of a particular deployment in the rights-of-way, in which case the permit fees are often already limited to the direct cost incurred by the local government. However, when local governments authorize private use of public property, they have a right and a duty to residents to charge a sufficient rent for for-profit use of public assets. Many local governments are also required by state constitutions or local charters to charge a fair market price for use of public property, to avoid running afoul of anti-gifting limitations. We also discussed the inapplicability of Section 253 to small wireless facilities, as outlined in a previous meeting with a group of Wireless Telecommunications Bureau and Wireline Competition Bureau staff. We reiterated that Section 253 does not grant the Commission authority to grant wireless providers a right to use local rights-of-way without permission from the jurisdiction.

Finally, we urged more constructive action from the Commission to work with local governments to deploy advanced broadband infrastructure to more Americans. For example, the Commission has yet to act on its RF emissions standards docket, which has become more important than ever as more RF emitting equipment is deployed at street level on locally owned assets. The Commission should also work with local governments to view small cell deployment as a planning opportunity, not a preemption challenge. Councilmember Riemer and staff from Montgomery County outlined the comprehensive policy and procedural changes the county has made to accommodate and expedite small cell deployment in their jurisdiction – even as small cell applications have remained a small fraction of the overall applications received by the county over the past several years.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's Rules. Please contact the undersigned if you have any questions.

Sincerely,

/s/Angelina Panettieri

Principal Associate, Technology and Communications
National League of Cities