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September 12, 2018

VIA ELECTRONIC FILING

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

Re: Ex Parte Presentation, Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79; Accelerating Wireline Barriers to Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Siting Policies, Mobilitie, LLC Petition for Declaratory Ruling, WT Docket No. 16-421

Dear Ms. Dortch:

On September 10, 2018, D. Kirk Jamieson, Senior Vice President for Government Affairs of Mobilitie, LLC, had separate meetings with Commissioner Brendan Carr and Will Adams, Legal Advisor to Commissioner Carr; with Michael Carowitz, Special Counsel to Chairman Ajit Pai; and with Umair Javed, Legal Advisor to Commissioner Jessica Rosenworcel. On September 11, Mr. Jamieson met with Commissioner Michael O’Rielly, Erin McGrath, Legal Advisor to Commissioner O’Rielly, and Kagen Desapin, Intern in the O’Rielly office. The undersigned accompanied Mr. Jamieson at each of the four meetings; Bryan Tramont of Wilkinson Barker Knauer LLP also attended the meeting with Commissioner Carr. Mr. Jamieson’s presentation at each meeting was consistent with Mobilitie’s Petition for Declaratory Ruling and its comments in these proceedings.¹

¹ Petition for Declaratory Ruling, *Promoting Broadband for All American by Prohibiting Excessive Charges for Access to Public Rights of Way* (filed Nov. 15, 2016) (“Petition”); Comments of Mobilitie, LLC, WT Docket No. 16-421 (filed Mar. 8, 2017); Reply Comments of Mobilitie, LLC, WT Docket No. 16-421 (filed Apr. 7, 2017); Comments of Mobilitie, LLC, WT Docket No. 17-79 (filed June 15, 2017); Reply Comments of Mobilitie, LLC, WT Docket No. 17-79 (filed July 17, 2017).

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In each of the meetings, Mr. Jamieson described Mobilitie's mission to deploy small cells and other infrastructure in small and large jurisdictions nationwide, in order to meet the public's rapidly growing demand for wireless services. He commended the Commission's prior orders in these proceedings for enabling needed infrastructure to be deployed faster and to more locations.

The order streamlining federal environmental and historic preservation review processes has had a particularly beneficial impact.² Because more than 85 percent of Mobilitie's facilities qualify as small wireless facilities, that order has enabled the company to reduce the regulatory review period for each of its thousands of small cells from months to a day or two for sites that meet the definition. At the same time the order has substantially reduced Mobilitie's processing costs, since a single test replaces multiple processes, each with its own paperwork and multiple steps.

Mr. Jamieson stated that Mobilitie has successfully partnered with many localities to build thousands of wireless facilities, and that it supports policies ensuring that localities can charge fees to compensate them for their reasonable costs in managing deployment. Fees that provide localities with the funding to act efficiently on applications benefit localities and their residents by enabling faster and more robust service to those communities.

Mobilitie filed its Petition in the fall of 2016, however, because outliers had been imposing exceedingly high fees. Mr. Jamieson noted that there is no competitive market for fees because each locality has monopoly/exclusive control of access to rights of way. He reinforced that high fee demands and agreements continue today. He identified as examples a northwestern city that charges an \$8,000 annual fee for each pole attachment, even for poles that are not city-owned, and a California jurisdiction that charges an \$18,000 conditional use permit fee. Mr. Jamieson also noted that high fees imposed by some cities hurt other cities that have reasonable fees, because they reduce capital resources that might have gone to those cities, and because they pressure other financially strapped cities not to turn away what appears to be a revenue opportunity.

Mr. Jamieson stated that Mobilitie strongly supports the draft Order's ruling (consistent with the company's Petition) that the Communications Act requires fees to be based on a locality's reasonable costs.³ The Order should emphasize that fees must be transparent to all providers by being publicly disclosed, and that fees be based on the locality's right-of-way management costs that are incurred due to wireless deployment.

² *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79; Second Report and Order, FCC 18-30 (rel. Mar. 3, 2018).

³ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79; *Accelerating Wireline Barriers to Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84; Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84, FCC-CIRC1809-02 (Sept. 5, 2018) ("Order").

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Mr. Jamieson also addressed delays in approving small cell applications. He noted that while some localities act on Mobilitie's applications within reasonable time periods, others do not, resulting in substantial delays of months or years. For example, one Texas city caps the number of applications it will accept, refuses to accept new applications that would exceed that number, requires nearly a dozen separate reviews by different city departments, and took over a year to approve a single application. He endorsed the draft Order's revisions to the shot clock periods for small cells, and its adoption of a presumption that failure to act within those time periods is an effective prohibition on service.

Mr. Jamieson also supported the draft Order's ruling that all mandatory local permits should be acted on within the applicable shot clock period. He stated that some localities require a master licensing agreement or franchising agreement above and beyond site-specific permits. These complex and lengthy agreements typically take many months or years to negotiate and then require local approvals, and they impose multiple conditions and obligations on rights of way access. Mr. Jamieson recommended that the Order explicitly state that licensing and franchising agreements, like permits, must be completed within the shot clock periods. If not, the failure to do so will be presumed to be an effective prohibition on service.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules. Should you have any questions, please contact the undersigned.

Sincerely,

/s/ John T. Scott, III

John T. Scott, III

cc: Commissioner Brendan Carr
Commissioner Michael O'Rielly
Michael Carowitz
Will Adams
Umair Javed
Erin McGrath