

# City of San Leandro

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September 12, 2018

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, District of Columbia 20554

*RE: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79*

Dear Ms. Dortch,

On behalf of the City of San Leandro, California, I am writing to express my concerns regarding the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment.

San Leandro is a city of 90,000 residents located in the heart of the San Francisco Bay Area. We take pride in being a high-tech city and have many accomplishments that show our commitment to bringing high-speed broadband internet and innovation to our community. Such accomplishments include a public-private partnership that has brought gigabit internet service to our local public schools and our industrial areas, as well as a free public Wi-Fi network that is available at various public gathering places including our main library and in our downtown business district. Our staff is also actively working with wireless providers to ensure the successful and timely rollout of wireless small cell devices - paving the way for 5G in our community - while balancing the needs for a streamlined permitting and approval process that balances the concerns and interests of our local residents.

While we appreciate the Commission's efforts to engage with local governments on this issue and share the Commission's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of the above-referenced proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that the proposed preemption measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability. As such, we would like to share the following concerns:

- **The FCC's proposed new collocation shot clock category is too extreme.** The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for the new expedited 60 day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the community. The addition of up to three

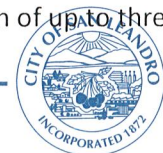
Pauline Russo Cutter, Mayor

City Council:

Pete Ballew  
Benny Lee

Deborah Cox  
Corina N. López

Ed Hernandez  
Lee Thomas



cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial, and may necessitate more review than the FCC has allowed in its proposal.

- **The FCC's proposed definition of "effective prohibition" is overly broad.** The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights-of-way requirements unless they meet a subjective and unclear set of guidelines. While the Commission may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding.
- **The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.** We disagree with the FCC's interpretation of "fair and reasonable compensation" as equating to approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is why our city has worked to negotiate fair deals with several wireless providers that are based on fair market principles, not arbitrary caps. If enacted this new rule could therefore result in tens of thousands of dollars in lost annual revenue for our City. Additionally, the Commission has moved away from rate regulation in recent years, so it remains unclear why it is necessary to so narrowly dictate the rates charged by municipalities.

In summary, the City of San Leandro has worked with private businesses to build the best broadband infrastructure possible for our residents and will continue to do so in the future. We oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community.

For these reasons, we urge you to oppose this declaratory ruling and report and order.

Respectfully submitted,



Mayor Pauline Russo Cutter  
City of San Leandro

cc: The Honorable Senator Dianne Feinstein  
The Honorable Senator Kamala Harris  
The Honorable Congresswoman Barbara Lee

