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September 17, 2018

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### VIA ELECTRONIC FILING

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 Marin County Board of Supervisors, I write to express our concerns with the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. We write as one member of the Marin Telecommunications Agency (MTA), a Joint Powers Authority (JPA) comprised of the County of Marin and nine of its cities and towns, including San Rafael, Belvedere, Corte Madera, Fairfax, Mill Valley, Ross, San Anselmo, Sausalito and Tiburon. In support of comments separately provided by the MTA, we have serious concerns about the Commission's intent to move forward with another ill-advised preemption of local authority.

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 are deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemption measures compromise that traditional authority.

- **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 this 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 cubic feet of antenna and up to 28 cubic feet of additional equipment to vertical infrastructure not originally designed to carry that equipment is substantial, and may necessitate more time for review than the FCC has allowed in its proposal.

- **The FCC’s “one size fits all” orders do not recognize unique local conditions and assets.** Marin County is one of the original 27 counties of California, created in 1850. Rights of ways were acquired through dedication and/or fair market value acquisition over time and as needed. The public rights of ways are already occupied by vital necessary services such as electrical systems, telephony, cable television/broadband, water, storm water and waste water distribution and transportation systems, such as roads, multi-use pathways for pedestrians, cyclists and the physically challenged. It will be extremely difficult for the additional equipment described above to fit into our rights of ways and not conflict with other existing service providers.

Finally, the visual impact of up to 3 cubic feet of appurtenance on top of vertical infrastructure, and the visual and obstructive impact of up to 28 cubic feet of equipment at the base of vertical infrastructure may not be viable.

- **The FCC is offering the for-profit telecommunications industry a deeply discounted financial arrangement and exceptional use of public assets for limited community benefit.** The FCC’s proposed ruling will have significant consequences for both communities and other for-profit and utility service providers that have been contributing to community benefit via fair and reasonable franchise agreements, fees for service and in-kind services for years. The order touts the economic benefit of faster deployments without acknowledging the costs, and not just from lost permit and rights of way fees, but also from impacts to property values/economic development/quality of life if small cell installations are not properly installed or well managed. If the cost/benefit of this proposed arrangement has been analyzed by the FCC, especially the basis for the acceptable fee structure outlined in the proposed order, we would like to receive that analysis.
- **The FCC’s proposed definition of “effective prohibition” is overly broad.** The draft report and order propose 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 meaning 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. Many cities, towns and counties in California already have worked to negotiate fair deals with wireless

providers, and the negotiations have resulted in agreed upon fees and additional benefits to the community. The Commission has moved away from rate regulation in recent years.

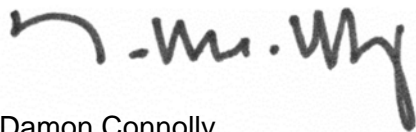
Many jurisdictions have already established contractual relationships with multiple telecommunications providers, and individual communities are actively updating ordinances, policies and procedures in advance of receipt of applications for specific attachments. The “fair and reasonable” compensation identified above comes nowhere near covering the actual costs to prepare for these telecommunications installations and does not reflect the cost to process and monitor such installations throughout their life expectancies.

Finally, many of our jurisdictions have franchise and other compensatory/offsetting agreements with the other users of the public rights of way that reflect not only the value of the use, but the expense that each community has invested in acquiring and managing that asset to deliver essential public services. While for some communities, the possibility of enhanced telecommunications is helpful, its value must be weighed and compared to the value of and necessity of our water, electrical, sewer and transportation systems.

- The FCC's Wireless Bureau must update RF emissions standards for new technologies now, and also needs to clarify liability issues related to small cell attachment devices. Local governments would find it helpful to potentially mitigate contentious public meetings if residents knew that providers are required to comply with newly updated RF standards that are based on small cells placed closer to pedestrians and homes (rather than on macro towers).

In summary, we have worked with public and private business partners to build the best broadband infrastructure possible for our residents. We oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Connolly", written over a light gray rectangular background.

Damon Connolly  
President, Marin County Board of Supervisors

C: Senator Dianne Feinstein  
Senator Kamala Harris  
Representative Jared Huffman