



September 18, 2018

VIA ELECTRONIC FILING

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

RE: FCC Declaratory Ruling 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 Oberlin I write to you regarding the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order, ("Order") and its limitations on state and local control over small cell wireless infrastructure deployment with Oberlin's corporate limits.

Oberlin is an Ohio chartered municipality founded in 1833. Oberlin has a population of approximately 8,333 people and is the home of Oberlin College also founded in 1833. Oberlin owns and operates a municipal light and power facility which includes 2,400 utility poles serving 2,736 residential customers, 291 small commercial customer and 75 large commercial customers.

Recently, Oberlin enacted an ordinance addressing the deployment of small cell wireless facilities within its jurisdiction which came as a result of two years of negotiations between Ohio municipalities and the Ohio State legislature. The ordinance strikes an appropriate balance between the need for the provision of 5g broadband wireless services and Oberlin's responsibility to serve the health, safety and welfare of its residents and preserves the many of the historical features that are peculiar to Oberlin.

While Oberlin shares the Commission's goal of facilitating the growth of cutting-edge broadband services for all Americans it is concerned about certain provisions of the FCC proposal.

First, Oberlin broadly opposes industry-driven federal proposals that would overturn the good-faith efforts between Ohio municipalities and the wireless industry such as those that have resulted in the recent ordinance. More specifically, Oberlin is concerned that the proposed FCC Order, as well as legislation introduced by Sen. Thune (R-SD) S. 3157, both seek to overturn the municipal pole exemption for small cell wireless attachments which currently exists in our ordinance.

The proposed Order, among other things, classifies the municipal pole exemption under the Communications Act as a barrier to small cell wireless investment. Oberlin strives to attract new infrastructure investments that benefit our community while promoting the health safety and welfare of

its citizens. Oberlin opposes these federal proposals to repeal local jurisdiction over its ability to protect the health, safety and welfare of its citizens through zoning, control over the public right-of-ways and utility infrastructure. The federal mandate of a “one-size-fits-all” approach to pole attachments and regulation while ignoring legitimate concerns about the placement of irregular and ever-changing wireless equipment on public power utility poles and facilities frustrates, if not displaces, Oberlin’s fiduciary obligations to its citizens.

Second, 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. This places an unreasonable burden on local governments to prevent harm to historic preservation, the environment, or the safety of the community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not designed to support that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal.

Third, 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 imprecise set of guidelines. While the Commission may have intended to preserve local review, this framing and definition lay a groundwork for conflict and litigation over requirements for aesthetics, spacing, and the placement of underground infrastructure. Oberlin’s ordinance governing small cell wireless facilities addresses these concerns in a manner that preserves and protects the unique aesthetics of Oberlin while simultaneously accommodates the needs of wireless providers.

Lastly, the FCC’s proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation. Oberlin disagrees with the FCC’s interpretation of “fair and reasonable compensation” as meaning approximately \$270 per small cell site. Many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide for additional compensation in the form of non-monetary benefits to the community. What objective is served by the Commission’s proposed dictate regarding rates charged by municipalities? Is not Oberlin in the better position to determine what constitutes fair and reasonable compensation and to negotiate such compensation with wireless providers who seek to utilize City infrastructure or otherwise locate their facilities within the City limits? Oberlin is in the best position to negotiate with private business to build the finest broadband infrastructure possible for our residents.

Oberlin opposes these efforts to restrict our local authority, frustrate local innovation and to impose limitations upon the obligations wireless providers have to our community. I strongly urge you to oppose this declaratory ruling and report and order.

Respectfully submitted,



Rob Hillard
City Manager