



Maryland Municipal League
The Association of Maryland's Cities and Towns

September 18, 2018

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,

The Maryland Municipal League writes to express its concerns about the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. The League was founded in 1936 and represents 157 municipal governments and two special taxing districts throughout the State. Maryland is home to several big cities, including Baltimore City with a population over 600,000. They all contain a mix of business, residential, and recreational land with their own unique charm. Maryland also comprises many small cities and town (59 have populations under 1,000) in both rural and urban settings, several of which maintain a historical character dating back to the colonial days.

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 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 and expose wireless infrastructure providers to unnecessary liability.

- **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 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. Maryland municipalities also have the burden of “deemed granted” laws that automatically grant approval to applications that are not processed within the federal time constraints, precluding a jurisdiction from presenting a reasonable case for delay before the courts. Combined with the new shot clock, we fear that our smaller cities and towns could be paralyzed by large siting requests and left unable to protect the public interest.

- **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. Ocean City, Maryland is a shining example of the type of partnership our members are eager to create with telecommunication providers. Along the boardwalk, for example, Crown Castle replaced several decorative poles with slightly modified versions to incorporate their small-cell technology. The partnership’s efforts resulted in a robust 5G capable network for city residents that is effectively hidden in plain sight and serves as the model for Maryland municipalities. Our concern is that the ambiguity in this Order will harm the relationships and processes that were cultivated to provide mutually beneficial outcomes.
- **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. That is why many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. Municipalities have spent countless hours and significant public resources crafting local ordinances and fee structures that this Order would undue. We are not a “one size fits all” kind of state.

Our organization has worked with private business and our 157 municipalities to build the best broadband infrastructure possible for Maryland 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 not to proceed with this declaratory ruling and report and order.

Respectfully submitted,



Scott A. Hancock
Executive Director

1212 West Street, Annapolis, Maryland, 21401

410-295-9100

| www.mdmunicipal.org

| 800-492-7121