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September 14, 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 Secretary Dortch,

The Government of Stafford County, Virginia 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.

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.



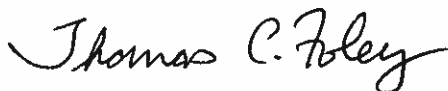
Not only do the Ruling's shot clock requirements place undue burdens on local government review staff, they serve to undermine the local zoning authority by eliminating the public hearing process for wireless communications facilities. Stafford County, in opposing adopted 2018 Virginia Wireless Communications Infrastructure legislation, expressed its firm view that public hearings are an imperative tool in the local review process. Public hearings encourage our constituents to contribute meaningful dialogue to land-use decisions shaping the character and aesthetic landscape of Stafford County. The FCC's Ruling encourages the co-location of small cell facilities on any structure regardless of whether it was previously zoned for wireless use. This renders the public hearing process innocuous, and undermines the ability of local officials to carefully balance competing business interests with local concerns of public safety and aesthetics. Local review authority is wisely vested in the hands of locally-elected officials and residents who can give input to a public process.

- **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 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. Additionally, the Commission has moved away from rate regulation in recent years. Why does it see fit to so narrowly dictate the rates charged by municipalities?

The definition of "fair and reasonable compensation" is especially troubling to Stafford County, as it specifically prohibits the inclusion of consulting fees in the total cost of a permit application. Stafford utilizes a consultant, paid through application fees, to assist with the review of permit applications. The County does not retain this ability in-house, meaning the Ruling's conclusions will place budgetary and workload constraints on existing review staff.

Our organization has worked with private business 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.

Respectfully submitted,



Thomas C. Foley

County Administrator

Stafford County, Virginia



CC: Sen. Warner

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Rep. Wittman

Gov. Northam

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Sen. Vogel

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