



September 17, 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 City of Worthington, Ohio 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 City of Worthington, a suburban community in the Columbus region of Ohio, was involved in the extensive dialog and negotiations that occurred in Ohio in the past year between cities and the wireless carriers over ways to effectively deploy small cell technology while respecting the other users in the right of way, cities' investments in infrastructure and the aesthetic environments that have been intentionally developed in many areas to enhance communities.

We recognize the benefits of new and evolving technology and we know our residents and businesses want access to the technology. We want to facilitate access to the technology in a way that makes sense in our community. 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 authority and directly undermine issues that were extensively discussed and negotiated very recently in Ohio.

- **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. Adequate review time is critical, especially when the application involves a support structure that was not originally designed to accommodate it and the structure is involved in maintaining public safety such as traffic signals.

Additionally, Worthington is well-known as a visually attractive community which the City has cultivated for decades via investment in decorative traffic signal poles, street lights, landscaping and other streetscaping investments. There are ways for small cell technology to be implemented effectively with minimal negative impacts to the aesthetics of our community, but it takes time to evaluate options and determine the best strategies.

- **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 \$500 for an application containing up to five small wireless facilities and \$100 for each facility beyond the five, and \$270 per small cell site for attachment to a municipally-owned structure. Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of income level or address. That is why many Ohio cities worked with industry representatives to negotiate reasonable fees for small wireless facilities in the public right of way. The proposed amounts in the draft report and order undermine months of negotiations that have occurred in Ohio. Additionally, the Commission has moved away from rate regulation in recent years. States and municipalities deserve the same flexibility in setting fees as has been granted to the industry in setting rates.

The combined effect of the proposed limits on review timeframes and fees, and unclear definition of effective prohibition is to over incentivize the proliferation of small cell wireless facilities outside of a planned and coordinated process, and without consideration of public health, safety and welfare.

Our City has been actively engaged in this issue and supported the months of negotiations between cities and the wireless industry to develop an approach to small cell technology that works in Ohio. The new state law went into effect on August 1<sup>st</sup> and was supported by cities and the wireless industry. These proposed rules ignore the hard work involved in those negotiations. We urge you to oppose this declaratory ruling and report and order.

**Despite the concern regarding issues concerning local sovereignty and possible federal takings issues, should the Commission proceed with enacting this Order, we request an exemption for those states in which the wireless industry and municipalities have reached consensus regarding the placement and installation of small cell facilities and the associated fees, timelines, and aesthetics.**

Respectfully submitted,

A handwritten signature in black ink that reads "Bonnie D. Michael". The signature is written in a cursive, flowing style.

Bonnie Michael  
City Council President

