



CITY OF SUGAR LAND

OFFICE OF THE MAYOR
JOE R. ZIMMERMAN

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 Sugar Land 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 Sugar Land is an award-winning community located just southwest of Houston, Texas.

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 residents to unnecessary risks to their safety.

- **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.

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- 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.
- **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. This amount is similar to the amount passed by the Texas Legislature under Senate Bill 1004 (SB 1004). SB 1004 is currently being challenged in state court as violating provisions of our Texas Constitution that require the public to receive fair rental compensation for use of public lands by for-profit entities. Furthermore, as good stewards of taxpayer money, the City of Sugar Land wants to ensure that access to the public right of way is granted at a fair price. Therefore, it is much more preferable for cities to negotiate fair deals with wireless providers based on fair market value of the property rather than establish an arbitrary rental amount or on an amount based solely on direct costs.

The combination of the new Texas law, and these draft provisions would severely impede Texas cities' ability to effectively protect and manage the public rights-of-way and broadband infrastructure on behalf of their residents. Our city has worked with private business to build the best broadband infrastructure possible for our residents while also ensuring that we are looking out for their taxpayer dollars. 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, report and order.

Sincerely,

A handwritten signature in blue ink, appearing to read "JRZ", is written over the word "Sincerely,".

Joe R. Zimmerman
Mayor