



COUNTY OF CASSIA

OFFICE OF THE BOARD OF COUNTY COMMISSIONERS

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September 19, 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,

On behalf of the Board of Commissioners for Cassia County, Idaho, I am writing to express concerns over the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment.

Cassia County is a rural county in south-central Idaho. Our county has a total area of 2,580 square miles, about 60% of which is public lands. Our population is estimated to be 23,600 people. So, while geographically large, our density is just over 9 inhabitants per square mile. Our largest City, and County seat is Burley, with a population estimate of 10,500 people. The main economic driver for our county is agriculture and agriculturally related businesses.

While we share the Commission's objective of finding new ways to effectively deploy broadband technologies, especially in underserved communities, we are concerned that the proposed language would significantly impede local governments' ability to serve as trustees of public property, safety and welfare. Counties own substantial amounts of public rights-of-way, which many communication providers use to construct their own communications networks. The proposed order would significantly narrow the amount of time for local governments to evaluate 5G deployment applications from communication providers – effectively hindering our ability to fulfill public health and safety responsibilities during the construction and modification of broadcasting facilities.

- **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. Two local concerns arise from all of this: 1. Safety issues – with unfettered use of preexisting structures, paired with limitations on review, how can we be certain of proper engineering to assure public safety in development and addition of structures? The limitations on overburdened local planning and building departments posed by the regulations will not allow for appropriate review and prudent checks to assure safety is promoted and adopted in development of structures related to small wireless facilities. 2. Cultural and historic matters – we have towns with historic buildings and structures, as well as the City of Rocks National Park and Castle Rocks State Park, along with the Oregon Trail and California Trail in our County. Without appropriate review and time to conduct necessary efforts to afford preservation and protection, these cultural and historic features are at significant risk. Adequate time and resources must be allowed to protect and preserve safety, as well as cultural and historic venues. The FCC's proposed new collocation shot clock category is too extreme.

- **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. It is critical to our county that longstanding local rights are preserved. Currently, the Local Land Use Planning Act, as provided by Idaho statute, authorizes and empowers the County in planning and zoning efforts on a local basis. This is critical to avoid structures and other infrastructure that might impede our local agricultural economy and our local transportation planning. Currently, we have regulations requiring undergrounding with certain infrastructure so as to not impede necessary and fundamental agricultural irrigation. If we are prohibited from disallowing undergrounding, our local economy is placed in serious jeopardy. If we are limited in siting decisions on small wireless facilities, that also could impact our entire county's agriculture economy in a negative manner. Local rules must be protected and preserved to allow for the local economy to continue to exist. Outside influences must adapt to the local stage, not the other way around. The FCC's proposed definition of "effective prohibition" is overly broad.
- **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? We are not certain of the impact proposed recurring fee to the County, but are concerned that it will carry a big impact in the future that might not be warranted in reality. We are also concerned about limitations on permitting fees. Currently, under the Local Land Use Planning Act in Idaho, the County has authority to require developers to provide expert information and professional

FCC – Ms. Dortch
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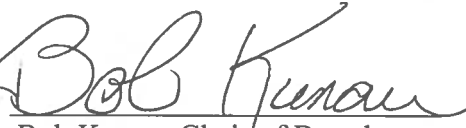
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studies to prove their proposals, these being at the developer's cost. If this continues forward, fees can be held low, though the FCC's proposal does not adequately address local costs for conducting the permitting process. If expertise will no longer be at the developer's cost, then the FCC's proposal is preposterous, and is merely "forced" order by the FCC, with no recourse or local protection. Therefore, the FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.

Our County 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,

BOARD OF COMMISSIONERS
FOR CASSIA COUNTY, IDAHO

By: 
Bob Kunau, Chair of Board