

County of Monroe

The Florida Keys



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September 18, 2018

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 Monroe County, Florida I write to express our concerns and opposition to the Federal Communications Commission's (FCC) Declaratory Ruling regarding state and local governance of the siting of small cell wireless infrastructure. The County supports the deployment of new technology, but not at the expense of local control over land use decisions and publicly owned infrastructure. This action by the FCC would undermine state law, cause confusion for local governments and the telecommunications industry, and would get ahead of Congressional efforts on this issue.

While we share the FCC'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. Local governments are best suited to evaluate the impact of any potential infrastructure on public rights of way and ensure that facilities are sited in a way that best serves our citizens.

The FCC cannot fully understand local needs, safety requirements, future development plans, or the aesthetic character of communities located thousands of miles away. A one size fits all policy does not make sense and will be unable to address the needs of diverse communities across the country. The State of Florida recognized that even within one state, the needs would not be the same, with exemptions built into the state law for retirement communities, municipalities with certain characteristics such as barrier islands, and areas governed by covenants or restrictions of a homeowner's association. Additionally, the Florida law exempts collocation on municipal electric utility poles, private utility poles, in the Florida Department of Transportation's right of way, and other specific instances. None of these exemptions are preserved in the Declaratory Ruling.

Monroe County has a number of unique needs due to our geography as a series of islands and our vulnerability to hurricanes and rising sea levels. It is essential that we have the flexibility to ensure that any attachments meet our resiliency standards to preserve our core infrastructure in the event of a hurricane or tropical storm. These issues are unique to Monroe County and cannot be properly captured in a blanket national standard.

The Declaratory Ruling would place processing requirements on local governments and limit our ability to recover the costs incurred. The State of Florida already has statewide shot clock and fee requirements and this proposal would cause confusion and render existing agreements negotiated between localities and telecommunications companies void.

The Declaratory Ruling could require every local government statewide to once again update their ordinances on this issue and require telecommunications companies to learn an entirely new process. Finally, 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 FCC 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.

This Declaratory Ruling is seeking to solve a problem that local and state governments have already addressed. Small cell deployment is expected to increase 550 percent over 2017 levels this year. Local governments are partnering with the telecommunications industry to deploy this technology quickly, safely, and in a way that best serves our citizens. We strongly urge you to oppose this Declaratory Ruling and allow local governments and the industry to continue to work together without interference.

Respectfully,

A handwritten signature in black ink, appearing to read "DRice", written in a cursive style.

David Rice, Mayor

Cc: Board of County Commissioners
Roman Gastesi, County Administrator
Christine Hurley, Assistant County Administrator/Growth Management Director