



CAROLYN G. GOODMAN
MAYOR

September 18, 2018

Marlene H. Dortch
Secretary of the Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Secretary Dortch:

The City of Las Vegas 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. The City of Las Vegas' experience thus far in agreement negotiations and reviews for similar pole attachments far exceed the shot clock thresholds imposed by this bill. The shot clock also does not allow adequate time for any necessary negotiation of right-of-way usage or coordination to obtain electrical service from third-party agencies. 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.
- **Existing, aging infrastructure may not be able to withstand the loads imposed by the attachment of additional equipment.** 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 imposes an increase in liability to the City if the pole were to fail. Further, the review necessary to determine whether the City's infrastructure has adequate structural integrity may necessitate more time 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"

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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? City-incurred costs for the initial installment of proposed equipment far exceed the estimated \$270 fee and include evaluation of potential locations, performing plan reviews and inspection services, issuance of permits, and providing power. This does not take into account additional future recurring costs associated with maintenance or infrastructure rehabilitation.

Our city 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.

Sincerely,



Carolyn G. Goodman
Mayor, City of Las Vegas

Sincerely,



Scott D. Adams
City Manager, City of Las Vegas