



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,

The City of Hayward, California strongly opposes the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment.

We share in the goal of ensuring all our residents have access to affordable, reliable high-speed broadband and eagerly welcome installation of wireless infrastructure in our City. Just last week our Council Technology Application Committee reviewed draft regulations for wireless broadband deployment that provides a streamlined approach while ensuring we are able to retain a reasonable level of local control. We understand what is required for the deployment of a 5G network and are proactively taking steps to make sure it can be done in an efficient but equitable manner.

However, contrary to our proposed regulations, the proposed FCC regulations interfere with our own ability to manage *Public* property and ability to receive fair compensation for its use. We actively manage the public rights of way to protect residents' safety, preserve the character of our community, and maintain the availability of the public rights of way for current and future uses.

We joining the hundreds of cities throughout California and the country who have the following major concerns with this proposal:

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

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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 equipment as large as a refrigerator necessitates more review than the FCC has allowed in its proposal. We appreciate the need to streamline the process but request that it is not done at the expense of our ability to complete our own due diligence and ensure the concerns of our residents are met.

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 more 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. A "one-size fits all" fee structure is bad policy as it does not account for drastic differences in the costs of doing business across the country.

This proposal would force local governments to give access to public property funded by the taxpayer so that for-profit wireless corporations can install their equipment to sell their private services. By eliminating fair market rate leases for use of taxpayer funded property, this proposal effectively gives corporations discounted access to these facilities with no requirement to pass their cost-savings onto their customers. This would create billions of dollars of value for wireless industry shareholders by eliminating fair market rate leases. Furthermore, rents from the use of public property, which every other for-profit business pays, help pay for essential public services, such as police, fire, libraries, and parks. This proposal would set a dangerous precedent for other private industries to seek similar treatment to benefit their shareholders over constituent funded infrastructure, further eroding the ability to fund vital local services.

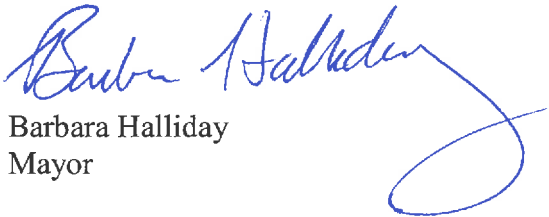
Ultimately, this proposal would have lasting, damaging impacts on the character of each individual city, while simultaneously creating an undue burden on taxpayers to subsidize the deployment of wireless infrastructure for private corporations. This proposal should be rejected, and wireless providers should be instead encouraged to work in collaboration with their local governments and residents we serve to deploy this critical infrastructure.

Local governments already have enough of an incentive to collaborate with wireless providers. We all want to see the buildout of a robust wireless network as we all rely on the internet to carry on with our daily lives. However, in doing so, we should not restrict local home rule authority

and our ability to ensure the public receives the necessary compensation and benefits for the use of their property.

It is for these many reasons the City of Hayward, California respectfully opposes this FCC proposal.

Sincerely,



Barbara Halliday
Mayor

cc:

Congressman Eric Swalwell

Senator Dianne Feinstein

Senator Kamala Harris

Hayward City Council

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