



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 Hampton 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 Hampton is one of the oldest settlements in the United States situated at the mouth of the Chesapeake Bay in southeastern Virginia. We are home to significant national defense and historic assets. Many significant events that help tell the story of our country occurred in Hampton and the Hampton Roads region.

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 unnecessary liability.

- **The FCC's proposed new collocation shock 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. As an older community, aging public infrastructure is an on-going challenge so the addition of these facilities to aging structures could, in some instances require detailed analysis.

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- **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. 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? Why is the burden of proof for higher fees that may reflect actual costs placed upon the local jurisdiction?

Our City has worked with private business to build the best broadband infrastructure possible for our residents. Without any directive from the federal government, the City of Hampton has already adopted zoning amendments to allow Small Wireless Facilities on private property as a "by right" use. We oppose this effort to restrict local authority and stymie local innovation in working with our telecommunications partners to provide state of the art communication technology to our citizens and businesses. We urge you to oppose this declaratory ruling and report and order.

Respectfully submitted,



Mary Bunting
City Manager

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