



## ANDREW DO

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September 19, 2018

### VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 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 Secretary Dortch:

On behalf of the Orange County Board of Supervisors, I am writing to express our strong opposition to the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment.

As the nation's sixth-most populous county with more than 3.3 million residents, Orange County supports the deployment of new and forthcoming telecommunications technology, including high-capacity 5G and related technologies. In 2015 the Board approved the "County of Orange Wireless Communications Facility Ordinances" after extensive collaboration with numerous stakeholders including the telecom industry. The ordinances established the permitting process and development standards for the installation and/or modification of wireless communications facilities on private property and within County highway right-of-way areas with the intent to protect and promote public health, safety, community welfare and aesthetic qualities in Orange County.

The Commission's declaratory ruling report and order restricts the County's local discretion and public review as it pertains to the siting of new infrastructure in the public domain. Our specific concerns are as follows:

- **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 a new expedited 60-day shot clock. When paired with the Commission's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent harms to the historic preservation, environmental, and safety interests of the County. 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 Commission has allowed in its proposal.
- **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 increased litigation and the associated costs over requirements for aesthetics, spacing, and undergrounding.

- **Proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.** The Commission's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site is unreasonable. Local governments share the Commission's goal of ensuring affordable broadband access for every American, regardless of their income level or address. As noted above, Orange County worked to negotiate fair deals with wireless providers, which may exceed the proposed compensation or provide additional benefits to our residents. As the Commission has moved away from rate regulation in recent years, it is disappointing to see this reversal by the federal government to remove local control by narrowly dictating rates that can be charged by local governments.

Local governments want to be a partner in successful deployment of next generation infrastructure. An approach that tries to preempt or remove local authority, however, would create tremendous conflict and would only serve to hinder local efforts aimed at closing the digital divide. For these reasons, the Orange County Board of Supervisors is on record opposing the Commission's declaratory ruling report and order. If you have any questions regarding the County's position, please contact Peter DeMarco, Director of Legislative Affairs, at 714-834-5777.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew Do", with a long horizontal flourish extending to the right.

ANDREW DO  
Chairman, Orange County Board of Supervisors  
Supervisor, First District

AD: pdm

cc: Members, Orange County Congressional Delegation  
Members, Orange County Board of Supervisors  
Frank Kim, County Executive Officer  
Matt Chase, National Association of Counties  
Graham Knauss, California State Association of Counties