**September 18, 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,

As a member of the Broadband Deployment Advisory Committee and the Vice President of Marketing and Communications at SmartWorks Partners, LLC, **I** write to express my 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.

My organization works with and advocates for municipalities across the country. We offer broadband master planning services to enable local governments to meet the demands of the ever-changing landscape of the telecommunications infrastructure. In addition, I served on both the Municipal Model Code and State Model Code Working Groups for the BDAC. After months of negotiating, the Municipal Model Code Working Group recommended a model code for consideration by the BDAC which was supported by the municipal members as well as the industry members of the team because it encouraged local governments to create a code that fit their needs.

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. 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.
* **The FCC’s proposed definition of “effective prohibition” is overly broad.** The draft report and order propose 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? Further, my organization provided data to the Rates and Fees Working Group at the BDAC to help the committee reach common ground on a fair and reasonable fee structure for pole attachments and the use of public right of way. I am disappointed and gravely concerned that the data provided was not presented to the BDAC nor was a final report before this action was presented for a vote. As of today, despite my inquiry at the BDAC meeting in July, I still have received no reasonable explanation for the removal of the data nor any follow up from the leader of the committee.

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.

Respectfully submitted,

**Angela Stacy**