



CITY OF CHICAGO

September 19, 2018

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

Re: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84

Dear Ms. Dortch:

The City of Chicago (“City”) appreciates the opportunity to submit this letter in response to the Commission’s release of draft text for the Declaratory Ruling and Third Report and Order¹ (“Draft R&O”) in Wireless Bureau Docket No. 17-79 and Wireline Bureau Docket No. 17-84. While the City strongly supports deployment of “small cells” and other next-generation wireless infrastructure throughout Chicago, we disagree with the Commission’s flawed and overreaching effort to mandate how cities manage small cell deployments. We respectfully request that the Commission delay consideration of the Draft R&O at its September 2018 open meeting until the document reflects a balanced approach respectful not just of industry demands but also of cities’ obligations to fairly, safely, and efficiently manage the public way and other public assets.

The City agrees with the Commission and industry commenters that “providers must build out small cells at a faster pace and at a far greater density of deployment than before.”² In

¹ *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, *Declaratory Ruling and Third Report and Order Draft* (rel. Sep. 5, 2018) (“Draft R&O”).

² Draft R&O at ¶ 3.

fact, at the ground level, this is exactly what is happening in Chicago right now, as the Chicago Department of Transportation (“CDOT”) and other City departments work with the wireless industry to receive, review, and in most cases approve an accelerating number of small cell placement applications. CDOT developed and staffed an entire project team of 5 engineers and other professionals that focuses year-round only on review of small cell siting applications. In 2017 alone, CDOT approved small cell installations at 1,677 CDOT-managed locations. As of early September 2018, CDOT data indicates 845 small cell devices permitted and installed on City light poles or City traffic signals.³ The City expects that installations will continue apace, if not accelerate, and the City is prepared to manage those future installations. Thus, we are disheartened that the Draft R&O spends much more time citing examples of deployment delays and costs. In reality, a full examination of the record in these dockets will show plenty of examples, such as Chicago, of implementing balanced, locally-tailored approaches that protect public resources while facilitating deployment.

While the City has a number of legal and policy concerns with the Draft R&O, it is worth emphasizing one in particular: the Draft R&O simultaneously prescribes both a one-size-fits-all presumptively reasonable fee structure and one-size-fits-all shot clock deadlines for small cell approvals. In its 2017 Comments in these dockets, the City described in detail our position on federally imposed compensation limits and review deadlines.⁴ The Draft R&O attempts to impose a fee structure and deadlines that simply do not account, as we had urged the Commission to consider in our 2017 Comments, for the complexity and density of a built environment like that in Chicago.

For example, the Draft R&O’s shot clock deadlines allow more time only in “truly exceptional circumstances”⁵ while also stating that the deadlines apply to “all authorizations necessary for the deployment.”⁶ The City explained in its 2017 Wireless Comments that small cell deployments often require underground coordination and review, a process that is applicable to all users and infrastructure in the City ROW and that is essential to protect Chicago residents and infrastructure, whether publicly or privately owned.⁷ Despite this complex review process, involving many utilities and other entities, CDOT on average processed small cell applications last year in 55 days.⁸ Nonetheless, it is not accurate to say that the proposed shot clock deadlines

³ This letter does not address installation data regarding small cells located on private buildings or property or on privately-owned utility poles, such as poles located in Chicago alleys and generally owned by Commonwealth Edison Company.

⁴ City of Chicago Comments (June 15, 2017), *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84; City of Chicago Comments (June 15, 2017), *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79 (“City 2017 Wireless Comments”).

⁵ Draft R&O at ¶ 123.

⁶ Draft R&O at ¶ 128.

⁷ City 2017 Wireless Comments at 3-4.

⁸ *Id.* at 4.

would only reasonably be exceeded in “truly exceptional circumstances.” CDOT’s average processing time, as well as simply the accelerating number of small cells installed in Chicago, show that the City is committed to next-generation deployment. We cannot, however, be forced to comply with unreasonable deadlines when we must on a regular basis undertake complex underground coordination and review that could exceed those deadlines.


Likewise, the Draft R&O’s presumptively reasonable state and local fees (and the accompanying analysis) dictate a uniform fee structure from Washington, D.C. that very well may end up hindering, in places like Chicago, the draft order’s stated goals of quick infrastructure deployment to facilitate 5G technology⁹ and reducing the “digital divide.”¹⁰ The City’s ability to accelerate deployment will be constrained if it cannot pay for the costs of review and ensure that the public is fairly compensated for use of public assets. In addition, the City is interested and actively evaluating innovative fee structures to ensure small cell deployment in low-income and other neighborhoods outside the central business district. Belying its claims of a balanced, tailored approach,¹¹ the Draft R&O finds that localities can “only in very limited circumstances” assess higher fees consistent with the Communications Act.¹² At a minimum, Chicago’s approach to small cell deployment indicates that a finalized order must establish a truly balanced analysis for evaluating state and local fees and the unique circumstances that play a role in setting those fees.

The City of Chicago remains focused on working with wireless and other partners to deploy the infrastructure that will support a 5G future. As we have noted in the past, we seek constructive dialogue with the industry focused on balanced solutions that work in Chicago. We also seek innovations that will ensure small cell deployment throughout Chicago, especially in low-income neighborhoods. Unfortunately, absent significant revisions to the Draft R&O, we fear that the Commission will actually hinder rather than facilitate those goals.

Sincerely,



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Dept. of Law



Rebekah Scheinfeld
Commissioner
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Danielle DuMerer
CIO and Commissioner
Dept. of Innovation and
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⁹ Draft R&O at ¶ 3.

¹⁰ *Id.* at ¶ 7. The City notes that the “digital divide” is certainly not an issue confined to “rural and suburban communities” and is very much a challenge in urban locations as well.

¹¹ Draft R&O at ¶ 6.

¹² Draft R&O at ¶ 77.