



September 19, 2018

***Ex Parte Notice***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 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:

On Tuesday, September 18, 2018, the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> spoke by telephone with Erin McGrath, Legal Advisor, Wireless, Public Safety and International to Federal Communications Commission (“Commission”) Commissioner Michael O’Rielly to discuss the recently released draft Declaratory Ruling in the above-referenced proceedings.<sup>2</sup>

NTCA first indicated support for efforts to address barriers presented by excessive rates and fees for access to public rights-of-way (“ROW”). NTCA members have led the charge in deploying broadband-capable infrastructure in rural areas. Deploying upgraded broadband capabilities to households and businesses in the areas served by RLECs already requires these providers to overcome low population densities, challenging geographic terrain, and short building/construction seasons. Adding in excessive fees beyond those reasonably necessary to recoup costs<sup>3</sup> can drive up even further the costs for deployment and/or upgrading of existing facilities, to the detriment of the consumers in need of better broadband (or any broadband access at all).

---

<sup>1</sup> NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All of NTCA’s service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

<sup>2</sup> *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, Declaratory Ruling and Third Report and Order, FCC-CIRC1809-02 (rel. Sep. 5, 2018) (“Declaratory Ruling”), available at: <https://docs.fcc.gov/public/attachments/DOC-353962A1.pdf>

<sup>3</sup> Cost-based fees should be defined as those direct costs incurred by the jurisdiction involved in reviewing applications, issuing permits, performing physical site inspections (both before and after facilities installation), constructing, repairing or maintaining government-owned facilities utilized or disturbed by the installation of broadband related facilities, supervision of installation in the right-of-way (closing off streets and traffic control, for example) or similar expenses that can be directly traced to a provider’s use of the right-of-way. *See* Broadband Deployment Advisory Committee, Rates and Fees Committee, Final Report to the BDAC (Jul. 24, 2018), p. 6, available at: <https://www.fcc.gov/sites/default/files/bdac-07-2627-2018-rates-fees-wg-report-07242018.pdf>

NTCA observed that, even as the Declaratory Ruling focuses primarily upon small cell wireless infrastructure, its reasoning with respect to the scope of Section 253 governs with equal force in the context of all kinds of network facilities and technologies. Thus, the same logic that underpins the legal analysis and assessment of marketplace barriers stated in the Declaratory Ruling logically applies on a technology-neutral basis to deployment of wireline and wireless network facilities alike. Indeed, such an interpretation is essential as a practical matter to further the specific goals of the Declaratory Ruling in seeking to promote deployment of next-generation wireless services. To a significant degree, 5G wireless services will rest upon a foundation of wireline backhaul facilities: even where licensed spectrum may be available to function as backhaul in some instances, the densification of small cells that will power this new technology will certainly require a densification of fiber not seen before in this nation's history.<sup>4</sup> This is particularly true in rural areas where densities are low. As a technical paper released last year found in examining certain 5G deployments, one can assume "a typical 500 foot coverage radius for small cells."<sup>5</sup> In rural areas where potential service locations and users are often much further apart, fiber is therefore the linchpin to effective connectivity – and barriers to its deployment will undermine, if not defeat, access by rural Americans to next-generation broadband services and speeds of the kind contemplated by the Declaratory Ruling.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,  
/s/ Brian Ford  
Brian Ford  
Senior Regulatory Counsel  
NTCA-The Rural Broadband Association

cc: Erin McGrath

---

<sup>4</sup> See [Remarks](#) of Federal Communications Commission Chairman Ajit Pai at the Mobile World Congress, Barcelona, Spain, February 28, 2017.

<sup>5</sup> Evaluating 5G Wireless Technology as a Complement or Substitute for Wireless Broadband, Vantage Point Solutions (2017), p. 21.