



## **Comments of California Emerging Technology Fund on Declaratory Ruling and Third Report and Order, in FCC WT No. 17-79 and WC Docket No. 17-84**

The California Emerging Technology Fund (CETF) is a non-profit organization established by the California Public Utilities Commission with a mission to provide leadership statewide to close the “Digital Divide” by accelerating the deployment and adoption of broadband to unserved and underserved communities and populations. CETF has been providing leadership on broadband infrastructure and adoption policy issues for over a decade. CETF has filed extensively at the both the FCC and the California Public Utilities Commission on numerous broadband policy issues, in addition to managing numerous programs with community-based organizations addressing advanced digital infrastructure upgrades and digital inclusion.

CETF is dedicated to bringing digital equity to all communities. This requires both state-of-the-art infrastructure and broadband adoption programs for the unconnected. CETF deeply understand the need for technology upgrades in urban and rural communities by the wireless carriers and supports this important goal. However, upgrades to achieve 5G technology must be done in a way that is sensitive to environmental issues and respectful to impacted local authorities and the communities they represent.

Local authorities brought to CETF’s attention the proposed Declaratory Ruling and Third Report and Order in WT Docket No. 17-79, and WC Docket No. 17-84 (Declaratory Ruling). CETF is surprised and disheartened that the FCC's proposed processes for small cell siting in the Declaratory Ruling. In our view, the ruling would:

- (1) violate legitimate local authority over siting and permitting matters;
- (2) mandate unfair fee levels limited to cost of processing applications and for managing deployments in the rights-of-ways;
- (3) mandate arbitrary fee levels for small cell facility deployments;
- (4) inappropriately attempt to provide guidance on aesthetic and undergrounding requirements, which is uniquely an area within local jurisdiction and authority;
- (5) establish unrealistic shot clocks of 60 days for collocation on pre-existing structures and 90 days for new builds without regard to other pressing municipal business; and
- (6) make a faulty conclusion that failure to act within the new shot clock time period is a "presumptive prohibition on the provision of services” in every circumstance.

CETF is particularly dismayed at the unnecessary overreaching and preemptive tone of the Declaratory Ruling. This heavy-handed approach will not help facilitate wireless deployment; it will merely result in needless litigation for years which will not advance bringing advanced communications to our communities.

CETF will give an example why the FCC’s proposed approach is wrong-headed. In both the Cities of San Jose and Los Angeles, these jurisdictions are working sincerely with private sector wireless providers through open, competitive processes to accelerate deployment of 5G technology, and in return, forging partnerships for closing

the Digital Divide by establishing Digital Inclusion Programs or Digital Equity Funds. The proposed FCC action would preempt local leadership that is working cooperatively with the private sector and advancing the twin goals of the FCC to bring advanced infrastructure to our nation and to get disadvantaged and unconnected residents online.

Further, CETF does not think that the legal authority upon which the FCC relies in this order is sound. In the past, the FCC has always carefully balanced legitimate local authority over siting and permitting matters against the siting needs of the communications providers. In this proposed Declaratory Ruling, the usual balancing of interests has not been done. Instead, the bad acts of a small percentage of local jurisdictions is being used to justify a sweeping new preemption by the FCC over local authority nationwide. CETF strongly urges the FCC to rethink this counterproductive approach.

Respectfully submitted,

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September 19, 2019