

**September 19, 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,

The Kentucky Association of Counties, Inc. (KACo) Legislative Committee at our September 17, 2018 resolved that I, as Committee Chair and as an elected local government official,write to express our concerns over the Federal Communications Commission’s proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment.

Formed in 1974, KACo is a non-profit corporation made up of all 120 Kentucky counties and many political subdivisions and governmental non-profit corporations. *Local control* is a central tenant behind KACo’s operating philosophy. Of the three layers of government, local government is the government closest to the people and best understands the needs of our people and our communities because local government officials live in those communities. Federal legislation, rulings and orders that limit local control, while well-meaning, do not help provide a prosperous Commonwealth and does a disservice to the Commonwealth’s citizenry. Expediting the review process to a time period that does not allow for thoughtful discussion and review limits local control and should be reconsidered.

While KACo’s Legislative Committee shares the Commission’s objective of finding new ways to effectively deploy broadband technologies, especially in underserved communities, we are concerned that the proposed language would significantly impede local governments’ ability to serve as trustees of public property, safety and welfare. Counties own substantial amounts of public rights-of-way, which many communication providers use to construct their own communications networks. The proposed order would significantly narrow the amount of time for local governments to evaluate 5G deployment applications from communication providers – effectively hindering our ability to fulfill public health and safety responsibilities during the construction and modification of broadcasting facilities.

* **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 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 more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding.

Kentucky’s counties have worked with private business to build the best broadband infrastructure possible for our residents. 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,



Hon. Elbert Bennett

Legislative Committee Chairman

Kentucky Association of Counties