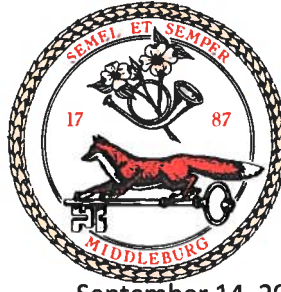


Town Of Middleburg

County of Loudoun

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September 14, 2018

TOWN COUNCIL

Trowbridge M. Littleton, *Mayor*
Darlene Kirk, *Vice Mayor*
J. Kevin Daly
Kevin Hazard
Peter Leonard-Morgan
Philip M. Miller
Catherine "Bundles" Murdock
Cindy C. Pearson

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 Town of Middleburg writes to express its 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. **Established in 1787, Middleburg is a small village located in Loudoun County, Virginia. It is one of the oldest and most carefully preserved towns in the state. Much of our identity is rooted in our natural beauty and the historic character of the town. This is something we have carefully cultivated and work hard to protect and is essential to our tourism economy.**

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 adverse historic preservation, environmental, or safety impacts 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. **In our case, we have allowed equipment to be attached to the**

Town's water towers. This, however, requires engineering review and expertise that we do not have on staff. Securing an engineer/consultant to review the plans would take longer than the 60-day shot clock would allow. In addition, if we were to allow the equipment to be installed without such a review, we could possibly put our public water supply at risk – something that would be unfathomable for a community whose population includes a large percentage of elderly and low-income residents.

- **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. **As a small community, we do not have the resources to challenge something that could endanger the community and its livelihood without having to reduce vital public services.**
- **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 localities 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? **In the case of Middleburg, too small a fee would mean the taxpayers would have to bear the burden of a portion of the costs associated with placing the equipment of a for-profit corporation in the town.**

Due to our proximity to Washington DC, many of our business and residents are dependent on technology. As such, we have worked with private business to build the best broadband infrastructure possible for our residents. On behalf of those residents and businesses, 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,



Trowbridge M. Littleton
Mayor

TMLrsn

Cc: The Honorable Tim Kaine, U.S. Senate
The Honorable Mark R. Warner, U.S. Senate
The Honorable Barbara Comstock, U.S. House of Representatives
The Honorable Ralph S. Northam, Governor of Virginia