

November 13, 2017

Ex Parte

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Comment Sought on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies; Mobilitie, LLC Petition for Declaratory Ruling, WT Docket No. 16-421*

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

Dear Ms. Dortch:

On November 8, 2017, Kirk Jamieson, Senior Vice President for Government Affairs at Mobilitie, met with Rachael Bender, Wireless and International Advisor to Chairman Pai, Kevin Holmes, Acting Legal Advisor to Commissioner Carr, Erin McGrath, Legal Advisor to Commissioner O’Rielly, and Louis Peraertz, Senior Legal Advisor to Commissioner Clyburn. Mr. Jamieson was accompanied by the undersigned for the meeting with Ms. Bender and by Bryan Tramont of Wilkinson Barker Knauer LLP for the other meetings.

In each of the meetings, Mr. Jamieson described Mobilitie’s mission to deploy small cell infrastructure, DAS and backhaul for wireless networks across the nation to address the public’s rapidly growing demand for broadband. As Mr. Jamieson explained, while Mobilitie appreciates its many local government partners with whom it works effectively, it also continues to encounter regulatory barriers that are slowing or outright blocking its efforts to expand and upgrade broadband networks. His presentation was consistent with Mobilitie’s comments and reply comments in the above-referenced proceedings.¹ He urged the Commission to take the following actions that will speed the availability of new broadband service.

¹ *Comment Sought on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies; Mobilitie, LLC Petition for Declaratory Ruling, WT Docket No. 16-421*, Comments of Mobilitie, LLC (filed Mar. 8, 2017), Reply Comments of Mobilitie, LLC (filed April 7,

November 13, 2017

Page 2

Limit excessive fees. Many localities have reasonable small cell application fees, but a significant number of outliers impose high application fees and often additional annual fees of thousands of dollars per site. These high fees make investment cost-prohibitive and threaten to deprive consumers, businesses and government of advanced broadband. Mr. Jamieson referenced Mobilitie’s Petition for Declaratory Ruling in WT Docket No. 16-421, which asked the Commission to interpret Section 253(c) of the Communications Act by ruling that the phrase “fair and reasonable compensation” means charges that enable a locality to recoup the cost reasonably related to reviewing and issuing permits and managing the rights of way, and that additional fees are unlawful. He noted that the Petition was filed nearly one year ago and urged the Commission to grant it at the earliest possible time because limiting fees will jumpstart more investment.

Adopt new shot clocks to reduce long delays. Mr. Jamieson described the lengthy time periods many localities impose before they will act on small cell applications, often a year or longer and sometimes over two years. He discussed the practice of some localities to require protracted enactment of an ordinance governing small cell deployment and/or negotiation of a franchise, each of which contribute to these many months of delay, before they will accept permit applications, and urged the Commission to adopt shorter a shot clock pursuant to Section 332 of the Act. He noted that it is equally important for the Commission to specify that if a locality requires any general approvals such as a franchise, all such approvals as well as actions on site-specific permit applications must be completed within the shot clock or the applications will be deemed granted.

Prohibit regulatory barriers to deployment. Mr. Jamieson identified numerous obstacles precluding deployment that constrain wireless providers’ design of their networks to best serve the public, including minimum distance separations between sites, propagation maps, proof that each site is needed for coverage, and undergrounding requirements. He urged the Commission to find that each of these restrictions or requirements is unlawful under Sections 253(a) and 332 of the Act.

Exclude replacement poles from Section 106 review. Finally, Mr. Jamieson discussed the draft Report and Order in WT Docket No. 17-79, which adopts a new exclusion from the Section 106 historic properties review process for poles that replace existing poles that can hold utility lines. Mobilitie supports this and other Commission actions to streamline the Section 106 review process and thus expedite deployment of new infrastructure.

November 13, 2017

Page 3

To ensure that the Report and Order achieves those objectives for replacement poles, the draft rules should be modified to delete the restrictions that the replacement pole be placed in the same hole as the original pole and be no more than 10 percent higher. Those restrictions would undermine the purpose of the new exclusion, because few if any replacement poles could meet them. Industry practice is to locate the replacement pole near (but not in) the same hole that held the original poles, and to use a higher new pole to accommodate wireless equipment. Mr. Jamieson thus urged that the draft rules be revised so that the exclusion covers replacement poles that are installed within ten feet of the original pole and that are no higher than the greater of 10 percent or 10 feet above the original pole. The Commission has full authority to adopt the exclusion with these modest changes, because it can find that replacement poles meeting these requirements will have no potential to affect historic properties. With these changes the Report and Order will effectively promote small cell deployment.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules. Should you have any questions, please contact the undersigned.

Sincerely,

/s/ John T. Scott, III
John T. Scott, III

cc: Rachael Bender
Kevin Holmes
Erin McGrath
Louis Peraertz