

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of State and Local Governments')	WT Docket No. 19-250
Obligation to Approve Certain Wireless Facility)	RM-11849
Modification Requests Under Section 6409(a) of)	
the Spectrum Act of 2012)	
)	
Accelerating Wireline Broadband Deployment by)	WC Docket No. 17-84
Removing Barriers to Infrastructure Investment)	

REPLY COMMENTS

I oppose these requests by WIA and CTIA. I have focused on a few issues.

WIA requests wholesale evisceration of local jurisdiction requirements for possible 6409a eligible facilities. They protest, for example, RF reports, propagation maps, and public hearing requirements. It is unclear that the FCC has the authority to sweep aside local requirements and dictate to local governments and the state how they should conduct land use regulation. This seems to run afoul of 10th Amendment separation of powers. It certainly deprives the public of due process, and it would disallow local governments from actually knowing what equipment is being installed within their jurisdiction.

CTIA proposes wholesale deregulation of 6409s on buildings, CTIA proposes: "The dimensions of the entire structure must be used in calculating whether a proposed modification would constitute a substantial change." By doing so, it would render "substantial" nonsensical. Under this scheme, a company could virtually cover a building with antennas and related equipment and not exceed substantial height or width considerations.

CTIA says (p. 21): "Correcting localities' misreading of the rules will meaningfully expedite upgrades to existing structures and the delivery of next-generation networks to consumers across America." CTIA urges FCC to reach past state sovereignty to dictate to local governments what they may and may not do. Even to an ordinary person, this CTIA petition seems to directly challenge the U.S. Constitution and the separation of powers.

Under "B. The Commission Should Affirm That Utilities May Not Impose Blanket Prohibitions on Access to Any Portions of Their Poles": to require utility companies to write individual certifications for why telecom equipment cannot be attached to pole tops or in other pole locations is unreasonable and expensive.

Utility poles are not snowflakes. Utility systems have similar configurations and pole layouts. Requiring repeated individual justifications is extremely burdensome and

expensive and requires special staffing. It impedes safety considerations for electrical infrastructure.

Further, it was overloading of utility poles by telecommunications carriers that caused the devastating 2007 Malibu fire where a major part of the city had to be evacuated.

Utility companies are in a far better position to ascertain pole safety. Furthermore, state regulatory commission set standards for safe equipment component installation on utility poles. By interposing itself in this public safety matter, the FCC would pose widespread dangers to the public. This Californian refuses to allow wireless companies already responsible for a devastating fire in one section of my state to have nationwide blanket access, where speed rather than safety is the goal.

“...the utility must demonstrate clearly and precisely why a specific attachment would raise safety and reliability concerns before denying access to such pole. A blanket ban obstructs the deployment of small cells.” (p. 30)

The 2011 Pole attachments Order, that a utility must explain “both the particular attachment(s) and the particular pole(s) at issue,” is simply unworkable. It’s time to put public safety first and not prioritize speed for an unrelated infrastructure. I raised other issues in my comments on WC Docket No. 17-84 in 2017

Local jurisdictions have special obligations as they regulate the public rights-of-way (PROW). In California this year, the Supreme Court re-affirmed local jurisdiction and policing powers. Ensuring that facilities in the PROW are installed do not incommode the public is their duty. If the FCC grants these requests by CTIA and WIA, it would have the effect of indirectly compelling local jurisdictions to allow the conversion of utility-owned light poles into small cell towers, subverting local due process.

California Public Utilities Code 7901 and its incommode language also applies to ADA access issues.

Not only do the use of light poles and utility poles cause visual blight and impair scenic resources and viewsheds, their location in the PROW block access for those disabled by electromagnetic sensitivity, causing discrimination. They have the effect of red-lining neighborhoods from the EMF-disabled, which seems to run afoul of the Fair Housing Act.

The FCC has now delayed the RF standards proceeding for six years. Despite public comments submitted on electromagnetic sensitivity and the sensitizing, irritating nature of the EMF-emissions from wireless technologies, the FCC ignores these submissions.

However, it has the staffing to initiate proceeding after proceeding increasing public exposure.

The digital divide is that which increasingly excludes people from society, putting greater

strain and financial burden on federal, state, and local government resources and reducing economic inputs and benefits from these people. The FCC continues to ignore this growing federally-recognized population, while maintaining inapplicable standards and promoting technologies that ignore this population's needs for reduced exposure.

The EMF-disabled already experience disabling health effects from existing levels of exposure, some so severe as to be life-threatening. Some of the major bodily functions substantially limited include cardiac and neurological systems. But the FCC goes further and has mandated universal exposure that will increase current levels through small wireless facilities in the PROW and sky- and space-based systems. This depraved indifference in the face of a grave situation across the United States directly countermands the advice of many personal physicians and is regulatory recklessness and abdication of the public trust.

Due to the short deadlines imposed for commenting on this proceeding, it was not possible to provide the lengthy analysis the FCC claimed it wanted.

Submitted by

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