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CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6711 • FAX (562) 570-6583

PATRICK H. WEST
CITY MANAGER

February 3, 2014

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW, Room TW-A325
Washington, DC 20554

Re: City of Long Beach Comments on the Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies *(WT Docket No. 13-238; WC Docket No. 11-59; WT Docket No. 13-32)*

Dear Secretary Dortch,

On behalf of the City of Long Beach, I write to comment on the Federal Communications Commission's (FCC) proposed rulemaking regarding telecommunication regulations and wireless facility siting policies. The City of Long Beach strongly opposes any regulation that would reduce local control over local land use authority, including locally adopted zoning regulations, and supports regulations that encourage wireless telecommunication providers to configure all facilities in such a way that minimizes displeasing aesthetics through careful design, siting, landscaping, screening and innovative camouflaging techniques.

Long Beach strictly enforces locally adopted zoning regulations related to wireless telecommunication facilities in accordance with State and federal law. The purpose of the City Council's adopted regulations is to provide wireless communications providers with the ability to adequately serve the public's interest within the City, while allowing the City of Long Beach the ability to protect the community against negative aesthetic impacts of wireless telecommunication facilities, establish a fair and efficient process for review and approval of wireless telecommunication facility applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City of Long Beach.

To address the FCC's request for input regarding the definition of "wireless tower or base station", the City strongly encourages these terms to only capture the height of the actual wireless communications facility, and not include within that height, the height of any building or structure on which the wireless communication tower sits. The City strongly disagrees with the Bureau's interpretation on the types of structures that may be considered a "wireless tower or base station." Buildings that were not built for the sole or primary purpose of providing support for a telecommunications facility may support antennas or other base station equipment, but should not be included in the definition of a "wireless tower or base station", as the building itself does not provide for telecommunication services. Inclusion of structures ancillary to the actual telecommunication equipment in the definition of "wireless

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tower or base station" offers far too much latitude for telecommunication facilities to expand and disrupt locally adopted General Plans without engaging the local jurisdiction and community.

The definition of "wireless tower or base station" is important because it is a significant determining factor in what triggers a "substantial change in the physical dimensions" of a wireless telecommunications facility. Long Beach's authority to regulate telecommunication facility aesthetics extends only to proposed changes that would "substantially change the physical dimensions" of a telecommunication facility. Therefore, inclusion of a building or other equipment that does not provide for telecommunication services in the definition of a "wireless tower or base station" increases the threshold for a "substantial change" and erodes local governance.

In response to the FCC's request for comments on whether and how to define when a modification would "substantially change the physical dimensions" of a wireless tower or base station, Long Beach takes the position that these changes should be determined by the local government, in accordance with municipal laws and the City's General Plan. The City also opposes the test referenced in paragraph 118 of this Proposed Rulemaking. Paragraph 118 states the test will only indicate a "substantial increase in the size of a tower" if the change exceeds one of four thresholds. The City believes all four thresholds are too high and would erode a local government's ability to govern the aesthetics of our City. The most dangerous threshold in this test is the first, which would define a "substantial change" as an "increase in the size of the tower... if the mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater...". Based on these criteria and if a "base station" was to include the height of a supporting building or structure, such as an apartment building or multistory office, a 10 percent increase would be a dramatic change, yet not considered "substantial" nor require interaction with the local governing body. The City of Long Beach is an established and built-out city. Many telecommunication facilities in Long Beach are situated on top multistory buildings. Long Beach opposes the inclusion of a building or structure into the definition of a "base station" or tower, and any test to determine a "substantial change" that starts the threshold at 10 percent or greater, because many locations exist in Long Beach that can be characterized by the example above and if all those locations were to expand in a manner that fails to exceed the threshold set by this proposed rulemaking, the City would have very little control over dramatic physical changes that would impact many residents in Long Beach.

The City is concerned that by stating States and localities "may not deny and shall approve" covered requests, the City will lose significant authority over regulating the aesthetic impacts of telecommunication facilities. Especially if issues related to the definitions highlighted earlier in this letter are not resolved, telecommunication facilitates may expand dramatically, intruding into the City's urban skyline and disrupting the local General Plan. The City must retain our existing authority to regulate local land uses, infrastructure aesthetics and implement the City Council's adopted General Plan. In response to the FCC's request for input regarding the "extent State and localities may require any covered request to comply with State or local building codes and land uses," the City's position is that localities should have the ultimate authority to enforce local zoning ordinances and municipal codes.

Long Beach strongly urges the FCC to exclude from the definition of "wireless tower or base station", the height of any structure that supports or houses an antenna, transceiver, or other associated equipment, as these were not built for the sole or primary purpose of providing such support. The City, further, strongly urges the FCC to allow local governments to maintain existing authority for governing the aesthesis of telecommunication facilities in accordance with existing law and the City Council's adopted General Plan.

Should you have any questions, please feel free to contact Diana Tang, Manager of Government Affairs at (562) 570-6506 or Diana.Tang@longbeach.gov.

Sincerely,

Patrick H. West
CITY MANAGER