



**SAN FRANCISCO
DEPARTMENT OF
TECHNOLOGY**

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September 19, 2018

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

Subject: 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:

On behalf of the City and County of San Francisco ("San Francisco"), I write to express San Francisco's concerns over the Federal Communications Commission's ("Commission") proposed "Declaratory Ruling and Third Report and Order" ("Proposed Order") scheduled for a hearing on September 26, 2018. San Francisco shares the FCC's interest in expediting the deployment of wireless infrastructure and services throughout the United States. However, we oppose the Proposed Decision because it is unnecessary in light of effective local efforts to facilitate the deployment of wireless infrastructure in the public right-of-way and because it oversteps the Commission's authority.

San Francisco, and other California jurisdictions, are leading the way in developing processes that balance the need for new wireless services with unique local circumstances. In cooperation with the industry, San Francisco arrived a design standard that has become a national model. Carriers agreed to license fee that have allowed small cells to flourish. Together with industry, San Francisco agencies came up with a way to re-purpose existing streetlight, transit pole and municipal infrastructure to support a whole new set of services. California, a state without pre-emptive legislation, has witnessed the emergence of creative partnerships that facilitate wireless deployment, for example Los Angeles and Sacramento have active commercial deployments of next generation wireless service, while in San Jose wireless carriers have agreed to support that city's digital inclusion programs. The Proposed Order puts these innovative local approaches at risk when it seeks to impose centralized control over inherently unique, local conditions and processes.

San Francisco filed comments and reply comments in both the wireline and wireless dockets that are the subject of the Proposed Order. Among other things, in the wireless docket San Francisco expressed its view that the Commission has no authority under 47 U.S.C. section 253 to regulate local government fees for the use of their infrastructure by telecommunications providers.¹ While the Commission would assume such authority, it has failed to provide a lawful basis for doing so. I am not writing to repeat those arguments. I write because the Proposed Order raises new concerns that the Commission fundamentally misunderstands the economic issues surrounding small cell deployment. While we have many concerns with the order, there are two that I would like to highlight: (1) the purported economic benefits are not supported and (2) the proposed shot clocks ignore the complexity of installing infrastructure in the public right of way.

To support its decision, the Commission cites analysis submitted by Corning in a series of filings ("Corning Analysis") to argue that its action would "eliminate around \$2 billion in unnecessary costs, which would stimulate around \$2.5 billion of additional buildouts."² Based solely on the Corning analysis, the Commission concludes that these cost savings would ensure that "new service would be deployed where it is needed most: 97% of new deployments would be in rural and suburban communities that would otherwise be on the wrong side of the digital divide."³ The Corning analysis appears to compare apples and oranges, by assuming pole attachment rates in urban areas—the rates that have been negotiated thus far—will prevail in rural and suburban areas. Presumably, carriers and local governments in rural and suburban areas will negotiate mutually agreeable rates that will support deployment in these areas. Tellingly, the Corning model predicts that only a negligible amount of additional investment will occur in urban areas if pole application and access fees are lowered.⁴ Consequently, there is no basis for concluding that the Proposed Order will increase investment in rural areas or anywhere else.

In our opening comments, San Francisco took pains to educate the Commission about our highly productive approach to making poles available to the wireless industry.⁵ Our comments described the Public Works department permitting process the role of our

¹ Comments of the City and County of San Francisco, WT Docket No. 17-79, p. 28.

² Proposed Order, ¶ 7.

³ Proposed Order, ¶ 7.

⁴ Letter from Thomas J. Navin, Counsel to Corning, to Marlene H. Dortch, Secretary, FCC, WT Docket 17-79, Appendix. August 29, 2018. Letter from Thomas J. Navin, Counsel to Corning, to Marlene H. Dortch, Secretary, FCC, WT Docket 17-79, Appendix. September 5, 2018. The study presumes that rates decline from \$2,500 to \$270.

⁵ San Francisco Comments, pp. 9-13.

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Public Health and Planning departments, and finally the licensing process performed by the agencies that own the poles in the streets. As our comments explain, the permitting process arose out of community concerns about aesthetics. The licensing process emerged out of a need to prove that individual streetlight, transit poles, municipal conduit are suitable to meet the new purpose to which they are being put, that they can accommodate the increased structural, electrical, and space requirements of the new facilities. By requiring that all state and local authorizations occur within the designated period, the Proposed Order's new shot clocks appear to conflate conditional use authorization and basic safety regulation. By doing so, the Proposed Order would make it more difficult for San Francisco and other jurisdictions to safeguard public health and safety and protect neighborhood aesthetics.

These are just some of the ways I believe that the Proposed Order takes unnecessary steps with respect to regulating the local government role in the installation of wireless facilities in the public-right-of way.

Sincerely,



Linda J. Gerull
City Chief Information Officer
Executive Director