



Jenny Leinen <leinen@monterey.org>

Please forward to Planning Comm. & Wireless Ordinance Subcomm.

1 message

~~XX~~ Thu, Sep 13, 2018 at 2:25 PM
To: leinen@monterey.org
Cc: ~~XX~~

Time sensitive. Please forward to the Planning Commission and the Wireless Ordinance Subcommittee: Thank you.

To Monterey City Council, Planning Commission, and Wireless Subcommittee

Dear Mayor City Council, commissioners, and committee members:

On Sept. 5, the FCC released its 100-page FCC draft order “Streamlining Deployment of Next Generation Wireless Infrastructure”. If adopted, these rules and guidance will eliminate most state and local regulatory authority over cell towers and wireless infrastructure including “small cell” facilities in the public right of way

<https://www.fcc.gov/document/streamlining-deployment-next-generation-wireless-infrastructure>
<https://docs.fcc.gov/public/attachments/DOC-353962A1.pdf> (the rules begin on p. 72)

- Comments are due no later than Monday, Sept. 17 (less than 2 weeks from draft release).
- This rule and report will be voted on by the FCC on Sept. 26.

The short time frame eliminates the public’s and states’ and local governments’ ability to read, evaluate, react, and comment on the proposed rules. Most of the public don’t know about this pending proposal. The draft order is also not posted on the FCC’s home page, despite its deep impact on every community and resident In the United States.

- It is critical that the FCC:
- Postpone Commission action on these rules until November (at least), and preferably postpone until January in the interest of transparency and public process, to allow adequate evaluation of this proposal and its impacts on the public, and on cities, counties, and states.
 - Open 60-90 day (minimum) public comment period on these rules, beginning immediately and for anyone regardless of standing
 - Post the draft order on the FCC home page where it can be easily found

Instructions on how to comment directly to the FCC are below. In addition, comments should be submitted by cities and city officials to the National League of Cities, and by mayors to the U.S. Conference of Mayors, asking them to submit them to the FCC on your behalf. These organizations have standing in this proceeding and can submit comments from others per FCC staff instructions, which gives the comments more weight. The organizations and individuals that have standing are listed in Appendix B, p. 75.

- This draft order and report:
- Eliminates significant gap in coverage as a consideration in cell tower decisions
 - Redefines “collocation” as adding wireless infrastructure to any structure – all small cells are now defined as collocations unless they’re on new towers, all new cellular facilities installed on buildings are collocations
 - This subjects these projects to much shorter shotclocks.
 - Shortens the shotclock – the time for making a decision on an application. Currently, the shot clock for all new facilities is 150 days.
 - Collocation of small cells 60 days
 - Collocation of other wireless facilities 90 days
 - Construction of new small cells 90 days
 - Construction of new facilities except small cells 150 days
 - No time extension of shotclock for batched submissions
 - All permits, including building permits, must be obtained within the shotclock
 - Missing these deadlines is now interpreted by the FCC as an “effective prohibition” of wireless service, and court remedies are encouraged, absent “extraordinary” circumstances.

- Reinterprets and extends protection and authorization to all wireless services and infrastructure now and in the future, far beyond telecommunications.
 - Ignores ADA rules and access for people disabled by electromagnetic sensitivities.
 - Radically redefines prohibition of service and applies it to every aspect of regulation. All rules created by local governments or states, including aesthetic rules, can fall under FCC's new interpretation of "effective prohibition" and allow carriers to sue for relief. "A state or local legal requirement constitutes an effective prohibition if it 'materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.'" (#79)
 - FCC warns that "excessive" fees can constitute an "effective prohibition" and therefore, are not allowed. Institutes an implied cap on application fees on public right of way (PROW) cell towers (#75).
 - \$500 maximum for 1-5 PROW towers submitted together, \$100. for each additional PROW tower – in some cities, this would only pay for 1-2 hours of staff time per application. Current application fees can be several thousand dollars.
 - \$270. maximum per site per year for all recurring fees
- The FCC is telegraphing they may adopt these at a later date. This goes far beyond Senate Bill 649, which did not affect application and other administrative fees related to wireless infrastructure.
- These infrastructure roll-outs become an unfunded mandate, putting costs on cities, counties, states, and local residents, reducing funding for local and state services, and reducing staff availability.
 - By these rules, the FCC regulates the public and state and local governments, instead of regulating the telecom and wireless carriers per its mandate. They have flipped their mandate.

I urge you to submit comments this week requesting FCC postponement of its Sept. 26 vote and a new extended comment period open to all beginning immediately.

Sincerely,

Nina Beety
Monterey
Member, California EMF Safety Coalition
831-655-9902

For filing FCC comments:

Per FCC instructions, put this information at the beginning of your comment. FCC staff said "EX PARTE" should be in italics.

To Marlene Dortch
Office of the Secretary
445 12th St., SW
Washington DC 20554

EX PARTE

Your name or organization

Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment;
Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment

D 17-79, D 17-84

Dear Ms. Dortch:

Write your comment

Filing comments for WT Docket No. 17-79 and WC Docket No. 17-84

The link to express filings --
<https://www.fcc.gov/ecfs/filings/express>

The link to standard comments (allows you to upload your comments and documents)
<https://www.fcc.gov/ecfs/filings>

Use either one to submit comments.
You can submit more than one comment, too.

How to get there from the main webpage:

fcc.gov

- Proceedings and actions
- Proceedings and actions overview
- File a comment in a proceeding, learn more
- Standard filing or express comment

Express comment –

<https://www.fcc.gov/ecfs/filings/express>

Proceeding: 17-79, press enter, 17-84, press enter

Name of filer: you

Primary contact email: your email address (not required)

Address:(required)

Brief comments: either type in your comments or paste your comments into the screen

(If you make a mistake, you can hit Reset)

Press, Continue to review screen

If okay, submit your comments

Print out confirmation page for your records

Standard filing – fill in these blanks --

<https://www.fcc.gov/ecfs/filings>

Proceeding: 17-79, press enter, 17-84, press enter

Name of filer: you

Primary contact email: your email address (not required)

Type of comment: comment, you could also file a complaint

Address (required)

Upload your comments – as a doc, pdf, or other listed file type; you can attach more than one document

(If you make a mistake, you can hit Reset)

Press, Continue to review screen

If okay, submit your comments (you may have to wait a bit for it to go through)

Print out confirmation page for your records



Jenny Leinen <leinen@monterey.org>

Jenny, for Planning Commission and Wireless Ordinance Subcommittee

1 message

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
To: leinen@monterey.org

Fri, Sep 14, 2018 at 10:48 AM

Please forward to the Planning Commission and the Wireless Ordinance Subcommittee. Thank you.

Nina Beety

<https://www.usmayors.org/2018/09/10/statement-by-u-s-conference-of-mayors-ceo-executive-director-tom-cochran-on-fccs-order-proposing-to-usurp-local-property-rights/>

Statement by U.S. Conference of Mayors CEO & Executive Director Tom Cochran on FCC's Order Proposing to Usurp Local Property Rights

Washington, DC—Below is a statement by U.S. Conference of Mayors CEO and Executive Director Tom Cochran on recent FCC proposals diminishing local government ownership rights over local rights-of-way and other public property:

“The U.S. Conference of Mayors strongly opposes recent proposals by the Federal Communications Commission to grant communications service providers subsidized access to local public property and to dictate how local governments manage their own local rights-of-ways and public property. This unprecedented federal intrusion into local (and state) government property rights will have substantial adverse impacts on cities and their taxpayers, including reduced funding for essential local government services, as well as an increased risk of right-of-way and other public safety hazards.

“We believe the courts will conclude that FCC’s proposals are based on misguided interpretations of federal law. Congress previously addressed and resolved these issues resoundingly in favor of local and state governments and their property rights. The Conference and its member cities reject efforts by this unelected federal regulatory agency to improperly invade state and local government authority by compelling local elected officials to subsidize, or “gift”, local public property to a small, favored group of private businesses. According to FCC’s own estimates, just one of these actions – the proposed small cell rules – threatens future revenues to local (and state) governments by billions of dollars over the next decade.

“The Conference of Mayors strongly opposes these proposals and calls on the agency to change them; absent such changes, the Conference and its members will seek relief in federal court to overturn this unprecedented overreach by the FCC.”