



Executive Director
Cindy L. Russell,

Honorable Brendan Carr
Federal Communications Commission

Re: **Comments on FCC Docket 25-253** - Build America: Eliminating Barriers to Wireline Deployments

November 16, 2025

Dear Chairman Carr and Members of the FCC:

We have read the Notice of Inquiry, Docket 25-253 and as well as Notice of Public Rulemaking, Docket 25-276 *Build America: Eliminating Barriers to Wireline Deployments*, and wish to comment on the issue of “barriers” to telecommunications expansion.

The apparent intent of the FCC is to remove these “barriers” in order to “streamline” and rapidly expand new untested wireless telecommunications networks, along with other digital information systems such as artificial intelligence (AI) throughout the United States. This request for comments, along with FCC Docket 25-276, aim to expand the 2018 FCC Declaratory Small Cell Order Ruling, “Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” by further preempting local authority.

While these FCC proposals are stated for the purpose of removing barriers to wireless expansion, it will instead further undermine local authority, increase administrative staff burdens, increase costs, reduce compensation, and create a larger digital divide. The League of Cities, among others were opposed to the Original 2018 FCC Small Cell Order. Data looking at the financial and administrative impacts of the Order on cities was gathered in a 2022 report by the National Association of Telecommunications Officers and Advisors, clearly showing the negative effects of the preemptions and short shot clocks on local governments.

The late **Senator Diane Feinstein** and **Representative Anna Eshoo** in 2018 showed their support for local government authority in matters of wireless siting and opposed the 2018 Small Cell Order, understanding the significant burdens to municipalities. Both Feinstein and Eshoo introduced bills in Congress **asking that the 2018 Small Cell Order**, i.e. The Declaratory Ruling in the *Third Report and Order and Declaratory Ruling in the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment* (FCC 18–111 and FCC 18–133), 3 Fed. Reg. 51867 **be null and void. (Feinstein SB 2012) (Eshoo HR 530)**

In addition, the rapid expansion of untested wireless technology networks without adequate health or safety testing, nor regulatory guardrails, create unmanageable risks to public health, the environment and cybersecurity of cities and citizens. It will also add to the massive increase in energy consumption that cannot be offset by efficiencies, as voluntary and involuntary usage of this technology will skyrocket.

The FCC has refused to update safety regulations for wireless technology established in 1996, which are based on outdated science. In 2021 the FCC lost in court for this failure to protect human health and the environment, with the DC Circuit judge stating. “We find the Commission’s order arbitrary and capricious in its failure to respond to record evidence that exposure to RF radiation at levels below the Commission’s current limits may cause negative health effects unrelated to cancer.” (FCC vs EHT)

We ask the same. 1) That instead of expanding the 2018 Small Cell Order, the Order should be eliminated and considered null and void. 2) We also ask that the FCC or Congress set up an independent commission or agency to reevaluate the current safety standards for wireless radiation using new science to set health and environmentally protective limits on the biological effects of non-ionizing wireless radiation, and not just use the obsolete heat effect standards. 3) In addition, Section 704 of the 1996 Telecommunications Act needs to be amended to allow health and environmental effects to be factors in the placement of cell towers to rationally protect public health and the environment.

The Telecommunications Act of 1996

The 1996 Telecommunications Act (TCA), was the first major overhaul of the Telecommunications Act of 1934. Its purpose was to *“to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”* The 1996 TCA gave “express and expansive” regulatory authority to the FCC, and in turn telecommunications companies, to expand telecommunications stating that state or local regulations governing the "placement, construction, and modification of personal wireless services facilities . . . (I) shall not unreasonably discriminate among providers of functionally equivalent services; and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services." It limited the ability of municipalities to consider many aspects of land use or safety in the placement of cell towers, which were assumed to be safe, without adequate testing.

The **TCA states in Section 704 that cell towers cannot be denied on the basis of “environmental effects”** (and later implied human health effects). Aesthetics was the primary consideration for denial of cell towers.

The Small Cell Order of 2018

As telecommunications companies experienced delays and municipal moratoriums on new and untested technology such as 5G, the FCC in 2018 adopted the Small Cell Order, also known as the “Third Report and Order and Declaratory Ruling in the matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” (FCC 18–111) and (FCC 18–133). The Declaratory Ruling placed substantial new limits on local wireless siting review and fee structure limits, as well as, expanding local public right of way access and adding use of public infrastructure such as streetlights and utility poles for cell towers. This resulted in municipal revenue losses.

The League of Cities opposed this 2018 Order as it preempted and displaced state and local laws to the benefit of wireless providers. The wireless carriers, not cities were then able to decide infrastructure use, placement or appearance of city streets, even though it may conflict with municipal zoning laws or aesthetics. The Order not only placed limits on fees (“safe harbor rates”) that cities could charge companies to lease the right of way, it also removed the requirement to build out and provide service to all residents in a timely fashion, allowing providers to cherry-pick the most profitable areas for wireless infrastructure, while ignoring rural and less-profitable areas.

Stretched Thin and Feeling the Squeeze

A 2022 Report by the National Association of Telecommunications Officers and Advisors, “Stretched Thin and Feeling the Squeeze: The Harmful Effects of Small Cell Preemption on Local Governments,” surveyed 48 local governments from coast to coast, both large and small. They found the Small Cell Order preemption had a negative impact on cities’ finances, created challenges for public safety and interfered with efforts to close the digital divide. There were increased staffing expenses, increased costs to paid consultants, increased legal expenses for lawsuits from both citizens and telecom companies, cell towers installed without permits, improper contract licenses, damage to public property and multiple complaints from residents.

KEY FINDINGS:

- **40%** of all localities reported that preemption has resulted in a **loss in revenue**, including **56%** of large localities.
- **83%** of mid-size localities and **63%** of large localities reported **increased staffing expenses**.
- **57%** reported that providers have **failed to restore roads**, sidewalks, or other infrastructure to its original condition following installation at least once.
- **52%** reported that companies have **damaged public property** at least once, including **31%** that report it has happened multiple times.
- **56%** of large localities reported that if it weren’t for preemption, they would be pursuing digital divide initiatives that they currently are not.
- **40%** reported that installations have **created accessibility issues** at least once, and **33%** reported that they have had installations that endanger the public.
- **44%** reported that broadband and small cell companies have **installed equipment without a permit**.

- **38%** of all localities and **50%** of large localities have dealt with **contractors lacking the proper licenses**.
- **71%** of localities have **received complaints from residents about radio frequency (RF) emissions**.
- **38%** report receiving complaints from residents about **installation issues** on multiple occasions

Protection of Industry Expansion or Public Health?

While the FCC asks to identify areas “considered to unlawfully inhibit wireless deployments”, they should instead revisit the failed and flawed current laws in order to protect the safety, health and well-being of the citizens they are here to serve. We have novel technology with new risks that cannot be addressed by old regulations and safety standards. Citizens oppose cell towers for the safety of their families and communities. Instead of downplaying, denying or dismissing the science, perhaps laws need to be changed to address the risks. These risks apply to all of us without discrimination.

The International Commission on the Biological Effects of Electromagnetic Fields (ICBE-EMF) was formed in 2022 as an independent scientific authority with goals similar to the International Commission on Non-ionizing Radiation Protection (ICNRP). The ICBE-EMF points out ICNRP’s outdated and flawed criteria, creating exposure standards that are 1) based only on heat; 2) do not consider long term exposure; 3) do not take into account sensitive populations; and 4) do not consider new research into health effects and biological harm at levels that are far below current standards. These are valid criticisms based on basic science, case studies and epidemiological studies, and need to be addressed.

This Notice Inquiry Docket 25-253 and the NPRM Docket 25-276 have the appearance of crushing local governments working for the interests of people while widely opening the gate for the telecommunications industry without accountability in what has been described by some as the “wild west”. **We suggest the 2018 Small Cell Order be reversed and not expanded (Docket 25-253) and we strongly oppose the elimination of setbacks, coverage and aesthetics as criteria for consideration by local governments when considering permits for proposed cell towers, both macro and small cells (Docket 25-276).**

We ask for thoughtful and responsible regulation that considers health, environment, privacy and security, along with providing strong local control.

Thank you for your consideration

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