

2019 POLICY BRIEF

SUPPORT THE ACCELERATING BROADBAND DEVELOPMENT BY EMPOWERING LOCAL COMMUNITIES ACT OF 2019

QUICK FACTS

- The FCC order limits fees local governments can charge providers and narrows the review process for municipalities to adequately assess 5G deployment applications
- The order is currently being challenged by local governments in the United States Ninth Circuit Court of Appeals
- The Accelerating Broadband Development by Empowering Local Communities Act of 2019 (H.R. 530) would effectively rescind the FCC's controversial 5G order

ACTION NEEDED:

Urge your members of Congress to support and cosponsor the Accelerating Broadband Development by Empowering Local Communities Act of 2019 (H.R. 530). Introduced by Rep. Anna Eshoo (D-Calif.) on January 14, 2019, the legislation would effectively rescind the Federal Communications Commission (FCC) 5G broadband deployment rule – Streamlining Deployment of Next Generation Wireless Infrastructure Declaratory Ruling and Third Report and Order, which NACo opposed.

BACKGROUND:

On September 26, 2018, the FCC approved a new rule on 5G wireless network deployment that significantly restricts local authority. The FCC decision not only limits fees local governments may assess telecommunications companies for the placement of wireless service facilities and constrains local governments to 60 days to evaluate applications from wireless companies to attach 5G Small Cells to existing structures and 90 days to review applications for equipment on entirely new structures.

By narrowing the window for evaluating 5G deployment applications, the FCC rule would prevent local governments from properly assessing and mitigating the impact broadcasting facilities may have on the public health, safety and welfare of the community.

Immediately after the FCC approved the controversial order, several lawsuits were filed by city and county governments in federal appeals courts questioning the legality of the rule. The order, which went into effect January 14, 2019, is currently being challenged in the United States Ninth Circuit Court of Appeals. The appellate court is expected to release a decision sometime this year.

COUNTY ROLE IN 5G DEPLOYMENT

Counties are strongly committed to the timely and successful deployment of 5G facilities and services throughout the nation, just as counties led and supported public and private partnerships that resulted in the successful introduction and expansion of 4G infrastructure and services. However, as stewards of substantial amounts of public rights-of-way, counties are concerned with recent federal actions that undermine local governments' ability to serve as trustees of public property, safety and well-being.

5G deployment will require telecommunications providers to install hundreds of thousands of small cells across the country to construct 5G networks. The vast majority of these sites will be located on locally-owned public rights-of-way, which requires providers to submit applications for local government review. The local review process is essential to ensuring small cell sites do not put public health and safety at risk during the construction and modification of broadcasting facilities. Due to the significant number of small cell sites needed to fully deploy 5G, close coordination between wireless service providers and local governments is critical during the siting process.

5G's reliance on a large network of small cell sites will place a considerable administrative strain on local governments' ability to process the exponential increase in applications for small cells from service providers.

KEY TALKING POINTS

- As stewards of substantial amounts of public rights-of-way, counties play an important role in the deployment of the 5G mobile network. The FCC's order significantly impedes county governments' ability to serve as trustees of public property, safety and well-being.
- Counties are strongly committed to the timely and successful deployment of 5G broadband and support federal policies that maintain local authority over public rights-of-way.
- Urge your members of Congress to support and cosponsor the Accelerating Broadband Development by Empowering Local Communities Act of 2019 (H.R. 530) that would effectively rescind the FCC's 5G order.

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