

THE PENNSYLVANIA STATE ASSOCIATION OF BOROUGHS

Expansion of 5G and Small Cell Wireless Infrastructure in Pennsylvania



Senate Communications & Technology Committee

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Good morning Chair Phillips-Hill, Senator Kane, and members of the Senate Communications & Technology Committee. My name is Ron Grutza and I serve as the Senior Director of Regulatory Affairs at the Pennsylvania State Association of Boroughs (PSAB). Thank you for the invitation to testify today before the Committee on the expansion of 5G technology through small cell wireless deployment.

PSAB is a statewide, non-partisan, non-profit organization dedicated to serving 956 borough governments and thousands of elected and appointed borough officials in Pennsylvania. Since 1911, PSAB has represented the interests of boroughs and helped to shape the laws that laid their foundation. With more than 2.6 million Pennsylvanians residing in borough communities, our members strive to deliver quality leadership and service to citizens across the Commonwealth.

With a growing need for faster and more reliable wireless internet connections, wireless phone and internet providers are gearing up to meet the growing digital needs of Pennsylvanians. Due to an increased demand, not only in streaming services, but also in more devices in the average household relying on the internet, new technologies are necessary to meet the ever-growing demand. 5G technology represents the conduit to meet the growing digital demand across much of Pennsylvania.

Unlike traditional cell towers, 5G technology requires thousands of small cell wireless facilities to be installed, often in neighborhoods and downtown areas. These small cell structures can be collocated on existing structures or on a new pole, most often in the public right-of-way, which is land owned by local governments. When a wireless provider seeks to deploy these small cell structures, they must first seek application with a municipality for conformance with any applicable land use ordinances.

In 2018, the Federal Communications Commission (FCC) issued its Declaratory Ruling and Third Report and Order, titled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment.” The Order established “shot clock” deadlines for quicker application decisions by municipalities, capped application fees, capped recurring annual fees for use of the public rights-of-way, and placed limits on aesthetic requirements. We believe the FCC’s order provided the industry with a standard of uniform rules intended to deploy the 5G technology without unnecessary delays. However, the FCC’s order did not, and could not under the federal Telecommunications Act, preempt local zoning of small cell structures. Land use laws are the domain of state legislatures.

In the past few years, PSAB has been engaged in the debate over state legislation regulating small cell wireless deployment. Our members strongly opposed any overly broad preemption of local zoning regulation for small cell structures. Additionally, our members objected to caps on fees that undercut the FCC Order and would not allow for the recovery of costs for the management of public rights-of-ways, which would be borne by the taxpayers.

While our members stress the important process of local decision-making, we are willing to work with the wireless industry for a fair and streamlined process for the deployment of 5G small cells in Pennsylvania. PSAB fully supports the development of new technologies, such as 5G, that will bring fast and reliable internet to our residents. We stand ready to work with the General Assembly and the various stakeholders on the issues relating to the development of 5G through the deployment of small cell structures.

PSAB stresses the following key points for you as you deliberate on legislation regulating the deployment of small cell structures in Pennsylvania.

- **Respect the Local Zoning Process.** Municipalities in Pennsylvania have a strong tradition of responsible land use regulations. Providing for an orderly and rational development of land is a decision that should be kept locally and not dictated from Harrisburg or Washington DC.
- **Keep FCC Fee Limits.** We suggest codifying the FCC Order caps on application fees and annual right-of-way fees. Additionally, we support allowing, similar to the FCC Order, the recovery of actual right-of-way costs. We oppose any legislation that undercuts the FCC Order fee limits.
- **Encourage Collocation.** Provide incentives to wireless providers to collocate on existing structures such as streetlights or traffic signals. If the goal is to speed up deployment of the new technology, using existing structures could help achieve this goal.

In closing, PSAB would like to thank the committee and the various stakeholders who testified today. As we move forward with the deployment of 5G, PSAB stands ready to work with the General Assembly and the various stakeholders in the advancement of the next level of telecommunications in the Commonwealth. We strongly believe this can be achieved in a fair and balanced manner to all parties. I will be happy to answer any questions you may have.