



Puerto Rico Planning Board
Attn: President and Associate Members
Centro Gubernamental Minillas
Edificio Norte, Piso 16
San Juan, Puerto Rico 00940

Re: Proposed Regulations for Construction Projects, Tower Installation and Location, and Telecommunication Installation (Volume IX, §9.11.16.3).

President María del Carmen Gordillo and Associate Members of the Board,

CTIA¹ submits this letter to express the wireless industry's concern that the above-referenced proposed regulations governing "micro-cells" will thwart investment in and deployment of wireless broadband on the Island. If adopted in their current form, the proposed regulations, just recently brought to our attention by members, will prevent deployment of robust next generation wireless networks on the Island. Accordingly, CTIA request that the Board review and amend the proposed regulations prior to adoption.

The Proposed Regulations Will Discourage Wireless Broadband Investment and Deployment

Wireless carriers are poised to deploy their next generation of networks ("5G") in Puerto Rico. Accenture projects that small cell deployments nationwide will escalate rapidly from roughly 13,000 deployed in 2017 to over 800,000 cumulatively deployed by 2026, and that wireless carriers will invest over \$275 billion in 5G infrastructure.² 5G deployment in Puerto Rico is estimated to add another \$2.0 billion in GDP and over 12,000 jobs to the Island's economy.³ However, the proposed regulations would impede this deployment and the benefits it will bring to the Island, directly contradicting Governor Rosselló Nevaes's "Puerto Rico is Open for Business" initiative. The Board should seek to foster an environment conducive to 5G

¹ CTIA – The Wireless Association® ("CTIA") (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association's members include wireless carriers, device manufacturers, and suppliers as well as app and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² See Accenture Strategy, "Accelerating Future Economic Value from the Wireless Industry," at 2 (2018) (Accelerating Future Economic Value Report), available at <https://www.ctia.org/news/accelerating-future-economic-value-from-the-wirelessindustry>.

³ See Accenture Strategy, "Smart Cities: How 5G Can Help Municipalities Become Vibrant Smart Cities" (February 2017) ("Smart Cities Report"), available at <https://api.ctia.org/wp-content/uploads/2017/02/how-5g-can-help-municipalities-become-vibrant-smart-cities-accenture.pdf>.



deployment instead of placing regulatory hurdles in front of wireless carriers poised to make tremendous infrastructure investments in Puerto Rico.

The Proposed Regulations Were not Designed for, and are not Suitable for, Next Generation Wireless Networks

The proposed regulations would impose yesterday’s rules on tomorrow’s networks. Designed to address the construction of traditional towers that can be hundreds of feet tall, Act 89-2000 (the “Act”)⁴ and its implementing regulations are ill-suited for small cells that can be the size of a backpack and discreetly deployed nearly anywhere – from street lamps to utility poles to height-restricted poles installed solely for small cells.⁵ Section 9.11.16.3 (“Poles Micro-Cell”) of the proposed regulations would treat “micro-cells” (commonly known as “small cells”) as towers for purposes of wireless infrastructure deployment in Puerto Rico, subjecting them to all the limitations of the Act, which was designed for traditional cellular networks. The Act’s most troubling requirements are its unworkable clearance requirement and the requirement to collocate small cells on traditional towers when such towers are near proposed sites. The Act’s implementing regulations add even more onerous requirements.

Applying the Proposed Regulations to Next Generation Wireless Networks Would Violate Federal Law and Policy by Effectively Preventing 5G Deployment

The Act requires all towers to “keep a distance of not less than the height of the tower, plus an additional ten percent (10%), from the closest residence,” and fifteen meters from the nearest structure.⁶ Wireless carriers intend to deploy small cells on vertical infrastructure, such as light posts, utility poles, and traffic light poles, which primarily are within the clearance zone required by the Act. Complying with this requirement would be impracticable at best, and would result in an erratic, patchwork deployment that wireless carriers surely would decline to undertake. Similarly, the proposed collocation requirements would render small cells ineffective, or dramatically impede their planned coverage footprint, due to the small cells’ small coverage footprint. Application of the Act to small cells would make deployment impractical or impossible and would constitute an effective moratorium on wireless deployment in violation of

⁴ As codified in 27 L.P.R.A. §321 *et seq.* CTIA notes that the section defines “micro-cells” as “all Telecommunications Equipment typically installed on poles built on public right of ways, along roads, streets and avenues,” but no definition of “Telecommunications Equipment” appears is contained in the statute, and the undefined term “cell sites” is also used within §9.11.16.3(a), creating a lack of clarity. CTIA uses the terms “small cell” and “micro-cell” interchangeably herein.

⁵ See Smart Cities Report, at 11.

⁶ 27 L.P.R.A. § 323(a) & (f).



47 U.S.C. §§ 253 and 332(c)(7). It would also constitute entry regulation prohibited by 47 U.S.C. § 332(c)(3)(A).

These regulations are also in stark contrast to efforts at the federal level to encourage the deployment of 5G networks. The Federal Communications Commission recently issued a ruling that explicitly prohibits state or local delays to 5G deployment caused by state or local regulation of wireless infrastructure deployment that constitute an effective prohibition of service preempted by Sections 253 or 332(c)(7) of the Communications Act.⁷ If the proposed rules are adopted in their current form, they will immediately violate 47 U.S.C. §§ 253 and 332 and also will violate the FCC's ruling that was adopted in September.

The Planning Board Should not Adopt the Proposed Regulations

In summary, CTIA urges the Planning Board not to adopt the proposed regulations.⁸ CTIA would be happy to participate in a process designed to implement appropriate regulations to address the deployment of small cells in Puerto Rico. If you have any questions, please do not hesitate to contact the undersigned. We look forward to working with the Board to address these concerns in order to promote investment in and deployment of next-generation wireless broadband for the benefit of Puerto Rico's citizens and economy.

Sincerely,

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cc: Sandra Torres, President
Bureau of Telecommunications

⁷ *In the Matter of Accelerating Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133, WT Docket Nos. 17-79 and 17-84 (September 27, 2018) at para. 35.

⁸ CTIA does not oppose any section of the Planning Board's pending regulations that do not impede deployment of small cells or other infrastructure or telecommunications equipment necessary to facilitate broadband deployment.