Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment	)	WT Docket No. 17-79
	)	
Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment	)	WC Docket No. 17-84

CTIA OPPOSITION TO PETITION FOR RECONSIDERATION

Thomas C. Power
Senior Vice President and General Counsel

Scott K. Bergmann
Senior Vice President, Regulatory Affairs

Kara Graves
Director, Regulatory Affairs

CTIA
1400 Sixteenth Street, NW
Suite 600
Washington, DC 20036
(202) 785-0081

Dated: February 22, 2019

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment	)	WT Docket No. 17-79
	)	
Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment	)	WC Docket No. 17-84

OPPOSITION TO PETITION FOR RECONSIDERATION

Pursuant to Section 1.429(f) of the Federal Communications Commission's ("Commission's") Rules, CTIA[1] hereby opposes the Petition for Reconsideration[2] of the Declaratory Ruling and Third Report and Order issued by the Commission in these proceedings.[3]

I. INTRODUCTION AND SUMMARY.

The Petition, filed by a group of localities and organizations representing localities, challenges the Commission's interpretations of Sections 253 and 332 of the Communications Act ("Act") and the application of these provisions to state and local siting requirements. The Ruling

[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, suppliers as well as apps 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] Petition for Reconsideration of the City of New Orleans, Louisiana, et al. (filed Nov. 14, 2018) ("Petition"). Public Notice of the Petition was published in the Federal Register on February 7, 2019, 84 Fed. Reg. 2485.

[3] *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Accelerating Wireline Broadband Deployment Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84, FCC 18-133 (rel. Sept. 27, 2018) ("Ruling" and "Order").

and Order, however, fit squarely within the Commission's statutory authority, are grounded on a substantial factual record, and directly promote the Act's objectives.

The Commission lawfully interpreted Sections 253 and 332. It affirmed localities' authority to manage the deployment of infrastructure and to recover their costs of doing so, while also setting guardrails to ensure that such management does not prohibit or have the effect of prohibiting service in violation of the Act. The Commission's interpretations and approach were amply supported by a record that documented numerous examples of local regulations and practices that were impeding the deployment of service. Similarly, the Commission's adoption of new shot clocks for small wireless facilities, based on its determination of a reasonable period of time to act on small wireless facilities applications, was a lawful interpretation of the Act and fully supported by the record, which included evidence of state laws that require action on siting applications within similar periods of time.

The Petitioners fail to demonstrate that the Commission misinterpreted or misapplied the Act. Several of their arguments are straw men that mischaracterize and overstate the Commission's conclusions. Nothing in the Petition warrants reconsidering any aspect of the Ruling or Order. The Ruling and Order will foster deployment of next-generation services, benefitting both consumers and the economy and promoting the national goal of 5G deployment. The Petition should therefore be denied.

II. THE COMMISSION LAWFULLY INTERPRETED SECTIONS 253 AND 332.

The Ruling and Order, which interpreted Sections 253 and 332 of the Act and applied these provisions to certain types of state and local siting practices, are squarely within the Commission's statutory authority, promote the Act's objectives, and are grounded on a substantial factual record. As the expert agency with responsibility to implement the Act, the

Commission has the authority to interpret Sections 253 and 332.[4] The Commission properly applied that authority, reaffirming its longstanding interpretation of Section 253(a) that 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'"[5] – an interpretation courts have upheld.[6]

The Commission's balanced approach to addressing regulatory barriers preserved localities' authority to manage the deployment of infrastructure. At the same time, it adopted limits on that authority, which were narrowly tailored to avoid regulatory actions (or failures to act) that would prohibit or have the effect of prohibiting service in violation of Section 253. Its approach was fully justified given numerous examples in the record of local requirements and restrictions that impose barriers to service. Each guardrail fits well within the Commission's authority to interpret Sections 253 and 332 and to advance the goals of the Act. Petitioners present no arguments demonstrating that the Commission's analysis of the Act and its purposes, or the Commission's balanced approach, misinterpreted or misapplied the Act. Their Petition should be denied for this reason alone.

[4] *E.g.*, *National Cable & Telecommunications Ass'n v. Brand X Internet Services*, 545 U.S. 967 (2005) (stating the Commission has authority to interpret ambiguous terms in the Act); *City of Arlington, Tex. v. FCC*, 668 F.3d 229, aff'd, 568 U.S. 290 (2013) (upholding the Commission's authority to interpret Section 332 in a declaratory ruling); *North County Communications Corp. v. Cal. Catalogue & Tech*, 594 F.3d 1149, 1155 (9th Cir. 2010) ("The FCC is the agency that is primarily responsible for the interpretation and implementation of the Telecommunications Act and of its own regulations.").

[5] *California Payphone Ass'n*, Memorandum Opinion and Order, 12 FCC Rcd 14191, 14206 ¶ 31 (1997).

[6] *See, e.g.*, *Puerto Rico Tel. Co. v. Municipality of Guayanilla*, 450 F.3d 9 (1st Cir. 2006); *TCG New York, Inc. v. City of White Plains*, 305 F.3d 67 (2d Cir. 2006).

III. THE COMMISSION'S RULING ON GOVERNMENTAL FEES WAS A REASONABLE AND PERMISSIBLE INTERPRETATION OF SECTION 253.

The Commission properly grounded its conclusion that siting fees should be based on governmental costs for processing applications and managing deployments in the right-of-way on the language and purpose of Section 253, as well as on record evidence showing that many localities were imposing excessive fees that operated as barriers to service.[7] Its conclusion is also consistent with the recommendation of the Broadband Deployment Advisory Committee's Rates and Fees Ad Hoc Committee, which concluded that application fees should be based on actual costs.[8] Petitioners fail to demonstrate that the Commission misinterpreted the Act or misapplied the record. Instead, they base their challenges on mischaracterizations of the Ruling.

Petitioners incorrectly claim, for example, that the Commission "mandate[s]" a siting fee of $270.[9] But the Commission did not require this or any other "flat fee" to be charged, set maximum fees, or "substitute its judgment" as to fee amounts.[10] Instead it interpreted Sections 253 and 332 to authorize localities to charge fees that recover their costs related to small cell facilities. It found, for example, that $270 was a presumptively lawful recurring fee for small wireless facilities located in rights-of-way, emphasizing that localities can charge higher fees that are "(1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3)

[7] Ruling and Order ¶¶ 25, 62-65.

[8] *See* Broadband Deployment Advisory Committee Rates and Fees Committee, Draft Final Report to the BDAC (v 2.5), at 15-16 (July 24, 2018), https://www.fcc.gov/sites/default/files/bdac-07-2627-2018-rates-fees-wg-report-07242018.pdf (stating that, because non-recurring one-time fees "are by definition tied to a specific event, the Committee recommends that these fees be based on the actual costs associated with that event").

[9] Petition at 16. The Petition is not paginated, but its Table of Contents includes page numbers for headings. Citations to page numbers herein are based on that table.

[10] *Id*. at 16-17.

are non-discriminatory. Allowing localities to charge fees above those levels upon this showing recognizes local variances in costs."[11]

Petitioners also assert (without any factual support) that "a flat fee of $270 per site does not provide cost recovery of these services."[12] They argue that the Ruling benefits providers "while depriving municipalities of needed capital to operate," and that "municipalities will now have to recover costs from its [sic] citizens."[13] Again, however, Petitioners inaccurately describe the Ruling, which clearly held that Section 253 authorizes localities to recover their reasonable costs. There is no cap, and there is no subsidy to providers that cities or their taxpayers must pay for. As the Commission stated, "[i]ndeed, our approach to compensation ensures that cities are not going into the red to support or subsidize the deployment of wireless infrastructure."[14]

Petitioners' mischaracterization of how the Ruling addressed siting fees undermines their other arguments. For example, they claim that "the Commission seeks to bring uniformity" to fees nationwide by "the imposition of unreasonable maximum fees."[15] The Commission did nothing of the sort. To the contrary, it determined that it would *not* set maximum fees, because the costs of overseeing deployment vary across localities: "We also recognize that direct and actual costs may vary by location, scope and extent of providers' planned deployments, such that different localities will have different fees under the interpretation set forth in this Declaratory Ruling."[16]

---

[11] Ruling ¶ 80.

[12] Petition at 17.

[13] *Id*. at 18.

[14] Ruling ¶ 73.

[15] Petition at 19.

[16] Ruling ¶ 75.

Petitioners then fault the Commission for "not allowing market rates to prevail."[17] But the Commission correctly found that nothing in Section 253 entitles localities to demand whatever they think the "market price" is for access.[18] In addition, as the record established, there is no true "market" for right-of-way access because localities hold monopoly control over that access. And, as the National Broadband Plan concluded:

> Fee structures should be consistent with the national policy of promoting greater broadband deployment. A fee structure based solely on the market value of the land being used would not typically take into account the benefits that the public as a whole would receive from increased broadband deployment, particularly in unserved and underserved areas.[19]

In other words, the consideration the public receives in return for permitting deployment of broadband facilities consists not only of siting fees, but also the proven economic impact of broadband deployment – a benefit that the record documents.[20] For each of these reasons, the Commission properly disallowed market-based rates.

Finally, Petitioners assert that, "by not allowing market rates to prevail," the Ruling may result in right-of-way access prices that are below prevailing rents for private land and buildings.[21] However, they presented no record evidence that rates for private land or building

---

[17] Petition at 19.

[18] Ruling ¶ 73 (rejecting the argument that Section 253 "must be read as permitting localities latitude to charge any fee at all or a 'market-based rent'").

[19] Federal Communications Commission, *Connecting America: The National Broadband Plan*, at 113 (2010).

[20] *See, e.g.*, *The Global Race to 5G*, CTIA (Apr. 2018), https://api.ctia.org/wp-content/uploads/2018/04/Race-to5G-Report.pdf; *How America's 4G Leadership Propelled the U.S. Economy*, RECON ANALYTICS (Apr. 16, 2018), https://api.ctia.org/wp-content/uploads/2018/04/Recon-Analytics_How-Americas-4G-LeadershipPropelled-US-Economy_2018.pdf; *attached to Ex Parte* Letter from Scott K. Bergmann, CTIA, to Marlene H. Dortch, FCC, WT Docket No. 17-79 *et al*. (filed Apr. 18, 2018).

[21] Petition at 19.

access would in fact be higher than the cost-based rates for access to public rights-of-way or structures. In any event, the Commission correctly rejected Petitioners' argument that localities have the right to charge fees at their discretion, including "a market-based rent."[22] As it concluded, "[m]any of these arguments seem to suggest that Section 253 or 332 have not previously been read to impose limits on fees, but as noted above courts have long read these provisions as imposing such limits."[23] In short, the Commission properly interpreted the Act to set presumptively reasonable limits on siting fees.

IV. THE COMMISSION PROPERLY ADDRESSED UNDERGROUNDING ORDINANCES.

The Commission correctly held that regulations that require undergrounding of wireless facilities constituted unlawful prohibitions of service or deployment in violation of Section 253 because wireless antennas cannot function if placed underground.[24] The Commission also correctly found that "a requirement that materially inhibits wireless service, even if it does not go so far as requiring that all wireless facilities be deployed underground, also would be considered an effective prohibition of service."[25] Both of these conclusions are within the Commission's authority to interpret Section 253 and are supported by the record.

Petitioners assert that "undergrounding of utilities should not be inhibited,"[26] but fail to explain how the Ruling inappropriately constrains localities. Instead, they cite examples of electric power companies undergrounding their lines. But while it is feasible to place electric

[22] Ruling ¶ 73.

[23] *Id.*

[24] *Id.* ¶ 90.

[25] *Id.*

[26] Petition at 22.

lines underground, antenna facilities cannot function if undergrounded. Petitioners also claim that, by requiring localities to allow above-ground facilities in areas where utilities have been undergrounded,[27] the Ruling "could destroy the aesthetics of these areas."[28] To the contrary, the Commission emphasized the legitimate role localities play in managing the appearance of their rights-of-way, and the Ruling preserves that role, subject to the requirements of Section 253. The Ruling merely requires that such aesthetics standards be "(1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance."[29] These minimal requirements should be unobjectionable – and Petitioners do not in fact contest them.

Petitioners also brand as "troubling" the Commission's affirmation of its longstanding interpretation of Section 253(a) that regulations that "materially inhibit" service (such as, potentially, undergrounding requirements that do not require all facilities to be undergrounded) violate Section 253.[30] However they ignore the fact that the Commission first adopted this "materially inhibit" standard when it interpreted Section 253 more than 20 years ago,[31] and they offer no facts or arguments to demonstrate why the standard is not a proper interpretation of Section 253. The Commission's adoption (and now confirmation) of this standard is in fact an

[27] Petitioners cite examples of electric power companies undergrounding their lines (Petition at 22), but this practice is irrelevant to wireless antenna facilities, which cannot function underground.

[28] Petition at 22.

[29] Ruling ¶ 86.

[30] Petition at 22-23.

[31] Ruling ¶ 83 (reaffirming *California Payphone Ass'n,* 12 FCC Rcd 14191 (1997)). As noted above, courts have applied the Commission's "materially inhibit" standard to invalidate local regulations. *See, e.g., Puerto Rico Tel. Co. v. Municipality of Guayanilla,* 450 F.3d 9 (1st Cir. 2006); *TCG New York, Inc. v. City of White Plains,* 305 F.3d 67 (2d Cir. 2006).

entirely reasonable and lawful interpretation of Section 253 that is fully consistent with that provision's language and purpose.

V. ADOPTION OF SHOT CLOCKS FOR REVIEW OF APPLICATIONS FOR SMALL WIRELESS FACILITIES WAS LAWFUL AND APPROPRIATE.

The Commission has authority to adopt new shot clocks for small wireless facility applications, and those new shot clocks are consistent with the Act and supported in the record.[32] Petitioners assert that the 60-day and 90-day timelines that the Commission adopted for localities to review applications for new and modified small wireless facilities, respectively, are "problematic."[33] However, they provide no facts to contradict the Commission's record-based conclusion that "Small Wireless Facilities have far less visual and other impact than the facilities we considered in 2009, and should accordingly require less time to review."[34] The record further undercuts Petitioners' undocumented claim because it showed that many localities can and do act on applications within these timelines. As the Commission observed, "[i]ndeed, some state and local governments have already adopted 60-day maximum reasonable periods of time for review of all small cell siting applications, and, even in the absence of such maximum requirements, several are already reviewing and approving small-cell siting applications within 60 days or less after filing."[35]

---

[32] *Id*. ¶ 21 (citing *City of Arlington, Tex. v. FCC*, 668 F.3d 229, *aff'd*, 568 U.S. 290 (2013) (upholding the Commission's authority to adopt shot clocks pursuant to Section 332(c)(7) of the Act)); *id*. ¶ 26 (documenting examples of long delays in local action on siting applications); *id*. ¶¶ 105-07 (citing state statutes and local ordinances enacting periods for acting on siting applications similar to the new 60-day and 90-day shot clocks for small wireless facilities).

[33] Petition at 20.

[34] Order ¶ 111.

[35] *Id*.

Petitioners incorrectly complain that the new shot clocks "create a 'one-size-fits-all' environment" that may be inconsistent with timelines associated with existing local review procedures and may not provide flexibility to address extenuating circumstances.[36] To the contrary, the Commission emphasized that these shot clocks, as with those for larger facilities, adopt "presumptively reasonable" time periods.[37] A locality may seek to demonstrate that, given the facts presented by a particular siting application, its failure to act within the shot clock was reasonable.[38] There is no one-size-fits-all mandate. In other words, as it did in adopting principles for applying Sections 253 and 332 to regulatory barriers, the Commission adopted new shot clocks that set consistent baselines under the Act in order to promote the deployment of facilities to serve the public. Petitioners also incorrectly argue that the Commission "failed to sufficiently articulate procedures when the shot clock is missed."[39] In fact, the Commission set out the process it envisions when a locality does not act within the applicable time period, including the opportunity for the locality "to rebut the presumption of effective prohibition by demonstrating that the failure to act was reasonable under the circumstances."[40] It further addressed an applicant's pursuit of an injunction to compel local action, discussing how each of the elements for injunctive relief would be met.[41]

Petitioners' example of the siting application procedures imposed by the City of New Orleans underscores why the new shot clocks are warranted. As many as *nine* different city

[36] Petition at 21-22.

[37] Order ¶ 106.

[38] *Id.* ¶ 119.

[39] Petition at 21.

[40] Order ¶ 119.

[41] *Id.* ¶¶ 120-22.

agencies must review a single application, and there is a mandatory three-week "layover" for franchise agreements.[42] Such multiple layers of review and arbitrary holding periods on applications are precisely why wireless providers are often unable to deploy needed services without excessive expenses and long delays.

Finally, Petitioners wrongly assert that a finding of "bad faith" should be a prerequisite for the issuance of an injunction where a locality misses a shot clock.[43] Such a requirement would be inconsistent with the Act and with the standard for injunctive relief. Section 332 of the Act requires action on applications within a reasonable period of time. Both the Commission's preexisting shot clocks and the new shot clocks the Order adopts for small wireless facilities specify periods of time that are presumptively reasonable. Neither the Act nor the Commission's shot clocks identify bad faith as a prerequisite to finding a violation of Section 332. Similarly, injunctive relief is not limited to instances of bad faith. The Commission should not enable unreasonable regulatory delays to hinder wireless deployment by imposing an infeasible and unjustified prerequisite to Section 332 relief.[44]

VI. THE RULING AND ORDER WILL DIRECTLY PROMOTE 5G DEPLOYMENT, AND THEREBY BENEFIT CONSUMERS AND THE ECONOMY.

The Commission grounded the Ruling and Order on its findings that the next generation of wireless services – 5G – "can unleash a new wave of entrepreneurship, innovation, and economic opportunity for communities across the country," and that it should thus "remove regulatory barriers that would unlawfully inhibit the deployment of infrastructure necessary to

[42] Petition at 16-17, 21.

[43] *Id*. at 21.

[44] CTIA assumes that instances of municipalities acting in bad faith are rare. As such, allowing for relief only upon such a showing would foreclose relief in most circumstances, notwithstanding the clear policy directives articulated by Congress in the Act.

support these new services."[45] The Commission based its actions on an extensive record that documented such barriers and included several economic studies that demonstrated that the benefits of 5G to the U.S. economy would be magnified if regulatory barriers were reduced.[46] For example, a study by Accenture Strategy found that speeding deployment by one year would trigger an additional $100 billion in economic growth.[47] A separate study by CMA Strategy determined that reducing siting fees could reduce deployment costs by $2 billion over five years, which could lead to an additional $2.4 billion in capital expenditures, with 97 percent going toward investment in rural and suburban areas.[48] The measured actions that the Commission adopted to address long delays, excessive fees, and other regulatory barriers – and thus help drive wireless connectivity – are clearly within its statutory authority and in the public interest.

Petitioners dispute the significant benefits that will flow from a regulatory framework that promotes 5G technology deployment.[49] But they offer no facts and no economic analysis to support their claim. In fact, nations that lead in wireless innovation reap substantial benefits. For example, U.S. leadership on 4G significantly strengthened our economy. One study concluded that, because of the launch of 4G, the number of U.S. wireless-related jobs nearly doubled in three years, and America's leadership in 4G deployment helped drive nearly $100 billion in GDP growth outside the wireless industry and meant roughly $125 billion in revenue to American companies that could have gone elsewhere.[50] Conversely, losing wireless leadership

[45] Ruling and Order ¶ 1.

[46] *Id.* ¶¶ 22-29.

[47] *Id.* ¶ 2, n.1.

[48] *Id.* ¶ 7, n.7.

[49] Petition at 14.

[50] *The Global Race to 5G*, CTIA (Apr. 2018), https://api.ctia.org/wp-content/uploads/2018/04/Race-to5G-Report.pdf; *How America's 4G Leadership Propelled the U.S. Economy*, RECON ANALYTICS (Apr. 16,

to the U.S. had significant, long-term, negative effects on the European and Japanese telecommunications sectors.[51] These compelling economic benefits are driving many other nations to move aggressively to attempt to deploy 5G. The Commission thus had ample grounds to conclude that it should "act to reduce regulatory barriers to the deployment of wireless infrastructure" so that the U.S. can be a leader in advanced wireless services and wireless technology.[52]

Petitioners concede that there may be "outlier" localities imposing barriers, but claim that other localities are working with providers to deploy new services, citing one city that reached an agreement with wireless providers.[53] This claim is irrelevant. The fact that some localities are approving facilities does not undermine the Commission's finding that others are obstructing service, and the execution of an agreement does not mean that the fees assessed, or other terms of the deal, were reasonable or consistent with the Commission's interpretation of the Act.[54] The

---

2018), https://api.ctia.org/wp-content/uploads/2018/04/Recon-Analytics_How-Americas-4G-LeadershipPropelled-US-Economy_2018.pdf; David Abecassis, Chris Nickerson, and Janette Stewart, *Global Race to 5G—Spectrum and Infrastructure Plans and Priorities*, ANALYSYS MASON (Apr. 2018), https://api.ctia.org/wp-content/uploads/2018/04/Analysys-Mason-Global-Race-To-5G_2018.pdf, *attached to Ex Parte* Letter from Scott K. Bergmann, CTIA, to Marlene H. Dortch, FCC, WT Docket No. 17-79 *et al*. (filed Apr. 18, 2018).

[51] *The Global Race to 5G*, CTIA, at 5 (Apr. 2018), https://api.ctia.org/wpcontent/uploads/2018/04/Raceto-5G-Report.pdf.

[52] Ruling and Order ¶ 29.

[53] Petition at 15-16.

[54] Indeed, there is no competitive "market" for fees or application processing terms because localities control access to rights-of-way and the zoning process. Consequently, to timely deploy needed service, providers may accede to the rates and terms demanded by a particular locality. The Commission made this precise point in finding that high fees charged by some localities could effectively prohibit service elsewhere, and that its interpretation of Section 253 should account for that adverse impact: "A contrary, geographically-restrictive interpretation of Section 253(a) would exacerbate the digital divide by giving dense or wealthy states and localities that might be most critical for a provider to serve the ability to leverage their unique position to extract fees for their own benefit at the expense of regional or national deployment by decreasing the deployment resources available for less wealthy or dense jurisdictions." It

record documented excessive fees, discriminatory practices, and regulatory obstacles that are in fact inhibiting deployment. Moreover, Petitioners ignore the fact that the delays and costs resulting from the regulatory practices of some localities have a ripple effect on investment and deployment far more broadly. Likewise, as was recognized by the National Broadband Plan:

> [B]roadband network construction often involves multiple jurisdictions. The timing of the process and fee calculations by one local government may not take into account the benefits that constituents in neighboring jurisdictions would receive from increased broadband deployment. The cost and social value of broadband cut across political boundaries; as a result, rights-of-way policies and best practices must reach across those boundaries and be developed with the broader public interest in mind.[55]

In the Ruling and Order, the Commission properly found that localities that impose barriers impede the development of service in other communities. For example, the Commission pointed to record evidence that high fees, burdensome requirements, and long delays in one city adversely impact deployment and harm service elsewhere.[56] And the Commission took careful aim at those barriers, while acknowledging the role of localities in the siting process and leaving undisturbed local practices that do not have the effect of prohibiting service. The Ruling was a reasonable, tailored response to eradicating regulatory barriers that conflict with the language and purpose of Sections 253 and 332.

Finally, Petitioners belittle the beneficial impact of the Ruling and Order on 5G deployment, but offer no supporting analysis. Instead, they point only to a statement by one carrier which they claim indicates the provider will not devote more money to infrastructure

---

cited as an example one city's ability to obtain a $24 million payment from providers to a "digital inclusion fund" in order to secure access to city poles. Order ¶ 63.

[55] *National Broadband Plan* at 113.

[56] Ruling ¶¶ 61-62.

buildout as a result of the Ruling and Order.[57] Petitioners are incorrect. As that carrier stated, "Verizon's public statements about the FCC Order have consistently emphasized . . . that FCC action to eliminate costs and other barriers will allow finite capital expenditure budgets to go farther and reach more places."[58] Other carriers concur that the Ruling and Order will in fact promote deployment.[59] In short, the record supports the Commission's determination that lowering regulatory barriers will accelerate service to the benefit of the public and the national economy.

[57] Petition at 18.

[58] *Ex Parte* Letter from William H. Johnson, Verizon, to Marlene H. Dortch, FCC, WT Docket Nos. 17-79, WC Docket No. 17-84, at 2 (filed Nov. 16, 2018). A Verizon executive has also stated that "[t]he FCC's actions help ensure that more Americans gain access more quickly to 5G services." *Id.*

[59] *See, e.g., Ex Parte* Letter from Kenneth J. Simon, Crown Castle International Corp., to Marlene H. Dortch, FCC, WT Docket No. 17-79, at 1-2 (filed Nov. 15, 2018) (quoting company executive's statement that the Order and Ruling will have an "immediate positive impact on our small cell deployments across the US").

VII. CONCLUSION.

The Order and the Ruling are solidly grounded in the Act and the record, and will advance the national priority to promote deployment of broadband services. Because Petitioners supply no valid basis for the Commission to reconsider the Order or the Ruling, their Petition should be denied.

Respectfully submitted,

/s/ Kara Graves

Kara Graves
Director, Regulatory Affairs

Thomas C. Power
Senior Vice President and General Counsel

Scott K. Bergmann
Senior Vice President, Regulatory Affairs

CTIA
1400 Sixteenth Street, NW
Suite 600
Washington, DC 20036
(202) 785-0081

Dated: February 22, 2019

CERTIFICATE OF SERVICE

I, Rachel Sher, hereby certify that on this 22nd day of February, 2019, a copy of the foregoing "Opposition to Petition for Reconsideration" was served by first-class U.S. mail, postage prepaid, on the following:

Allen S. Tilles
Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Ave., Sixth Floor
Potomac, MD
Counsel to Petitioners the City of New Orleans, et al.

/s/ Rachel Sher

Rachel Sher