



**Testimony of  
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Opposition to Connecticut House Bill 5183  
February 19, 2019**

**Before the Connecticut Joint Energy and Technology Committee**

Co-Chair Needleman, Co-Chair Arconti, and members of the Committee, on behalf of CTIA, the trade association for the wireless communications industry, I write to respectfully express our opposition to House Bill 5183. House Bill 5183 amends existing law to require the Connecticut Siting Council (Council) to hold a public hearing when any modification is proposed by a wireless provider to any existing structure. We are concerned such a provision would, in practice, run afoul of federal law, administratively overburden the Council itself and significantly slow wireless facility deployment in Connecticut.

The people of Connecticut continue to demand – at increasing rates of usage – access to wireless products and services. The fact that there are more wireless devices in Connecticut than there are people is apt evidence.<sup>1</sup> In fact, over one third of Connecticut residents already live in wireless-only households.<sup>2</sup> Wireless industry’s customers – your constituents – and the prevalence of mobile usage require wireless networks be both updated to meet existing demand and readied for the next generation of technology.

HB 5183 would require the Council hold a public hearing in any of the State’s 169 municipalities upon receipt of any application or notice of a modification being made to an

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<sup>1</sup> FCC, Voice Telephone Services Report: Status as of June 30, 2017, at <https://www.fcc.gov/voice-telephone-services-report>, last accessed 2/7/2019.

<sup>2</sup> CDC, National Center for Health Statistics, [https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless\\_state\\_201712.pdf](https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201712.pdf), last accessed 2/7/2019.



existing wireless facility. Today, the Council holds a public hearing as required by statute if a provider applies for a Certificate of Environmental Compatibility and Public Need for a new tower. As drafted, HB 5183 would expand the statutory public hearing requirements to any and all applications the Council receives involving changes to any existing structure, regardless of type. For example, a Council hearing would be required if a wireless provider simply filed a notice of an exempt modification to a tower, which most often involves minor changes or replacements of antennas on a tower; filed a tower share application for collocation on an existing tower; filed a petition for a declaratory ruling or approval of modifications at an existing tower site that meet the Federal Communications Commission's (FCC) eligible facilities request criteria; or filed petitions on any small wireless facility that involves a new structure/pole where such new structure is not otherwise used for municipal or electric distribution purposes.

Under federal law for an eligible facilities request, state or local government must approve an application within 60-days with the agency inquiry limited to whether the request meets federal regulations.<sup>3</sup> The requirement to hold a Council public hearing would all but ensure Connecticut runs afoul of federal law and could create a false expectation by the public that the Siting Council has jurisdiction to deny such modifications. More recently in 2018, the FCC took further steps in its State and Local Wireless Infrastructure Declaratory Ruling and Third Report and Order ("Order") by setting clear guardrails around numerous other state and local regulatory practices involving wireless facilities. In this Order, the FCC noted that Section 332(c)(7)(B)(ii) of the Communications Act requires that state and local governments must act

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<sup>3</sup> Section 6409 of the Spectrum Act (codified at 47 U.S.C. 1455) requires a State or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station. See <https://www.govinfo.gov/content/pkg/CFR-2016-title47-vol1/pdf/CFR-2016-title47-vol1.pdf>, § 1.40001 Wireless Facility Modifications, last accessed 2/8/2019.



“within a reasonable period of time” on “any request for the authorization to place, construct, or modify any type of personal wireless facilities.”<sup>4</sup>

The Order also established updated shot clocks for the deployment of small wireless facilities: a 60-day shot clock for collocation/pole attachments and a 90-day shot clock for construction of a new structure/pole involving a small wireless facility up to 50’ in height.<sup>5</sup> Notably, the Council has exclusive jurisdiction over any small wireless facility that involves a new structure/pole where such new structure is not otherwise used for municipal or electric distribution purposes. The public hearing requirement proposed in HB 5183, would make it difficult for the Siting Council to comply with the 90-day shot clock provisions in the Order. Furthermore, a public hearing requirement like the one found in HB 5183 – could not be used procedurally as a “complete circumvention of the shot clocks by significantly delaying their start date,” or as a means to deem an application incomplete or as a moratorium, which the FCC has also found unlawful.<sup>6</sup>

The sheer volume of modifications the Council considers each year far exceeds the number of days in a year.<sup>7</sup> Importantly, the legislation would also require the Council’s nine members and staff to conduct public hearings “on the road” each and every time a notice or application is filed, which is prohibitively taxing on volunteers as well as expensive to administer. As proposed, House Bill 5183 would interrupt today’s efficient and effective processes at the Council, which already address the balance between federal, state and public interests involved in wireless facility siting. By requiring a public hearing for any slight change to an

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<sup>4</sup> See <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>; see paragraph 132; last accessed 2/7/2019.

<sup>5</sup> *Ibid*, see paragraph 13.

<sup>6</sup> *Ibid*, see paragraph 145.

<sup>7</sup> “The Digest of Administrative Reports to the Governor, Fiscal Year 2017-2018”; [https://www.ct.gov/csc/lib/csc/publications/governorreport/2018anng\(final\).pdf](https://www.ct.gov/csc/lib/csc/publications/governorreport/2018anng(final).pdf), see page 3; last accessed 2/11/2019.



existing structure, House Bill 5183 would slow wireless deployment, is counter to the overall interests of Connecticut's residents and businesses and potentially drive capital investment out of the state. Further, no case has been made that the existing processes are insufficient.

In closing, as noted, wireless demand continues to soar and robust wireless networks are needed in order to accommodate this demand. Enacting policies comparable to those found within House Bill 5183 could run afoul of federal law and consequently slow wireless facility deployment in Connecticut. For all the reasons described herein, we respectfully ask the Committee to reject House Bill 5183.