



September 18th, 2019

Mr. Ed Toner
Chief Information Officer
State of Nebraska and Chair, Nebraska Information Technology Commission

RE: Policy Recommendation for Nebraska Rural Broadband Task Force

Dear Mr. Toner,

On behalf of CTIA, the trade association for the wireless communications industry, I write to submit an infrastructure policy recommendation for consideration by the Nebraska Rural Broadband Task Force (“Task Force” hereafter). As the Task Force is charged with reviewing “issues relating to the availability, adoption and affordability of broadband services in rural areas of Nebraska,” it is important that policies are in place that encourage deployment of wireless facilities in order to ensure wireless providers can offer the best wireless experience possible to its customers.

To level-set the need for robust wireless infrastructure in Nebraska, the people of Nebraska continue to demand – at increasing levels – access to wireless products and services. This is demonstrated by the fact that there are as many wireless devices in Nebraska as there are people.¹ In addition, over half of Nebraska residents live in wireless-only households.² These demands from the wireless industry’s customers require that wireless networks be both updated to meet the existing demand and readied for the next generation of wireless networks.

Wireless infrastructure is critical to meet the public’s increasing demand for wireless services. Infrastructure is the first point of network contact for all of our smartphones, tablets and other wireless devices. Without adequate wireless facilities and the ability to expeditiously update existing infrastructure, wireless providers cannot meet demand for coverage or capacity, whether for citizens making 9-1-1 calls, public safety responding to emergencies, or consumers and businesses sharing data.

Just this year, Nebraska took an important step in recognizing the critical role that wireless infrastructure plays in our society. With the legislature’s passage and Governor Rickett’s signature, Nebraska adopted legislation that modernizes processes and imposes reasonable fees for the deployment of small wireless facilities (“small cells”).³ Small cells play an important role in accommodating today’s demands on wireless networks and will also be a key component for providing the next generation of wireless services, commonly

¹ FCC, Voice Telephone Services Report: Status as of June 30, 2017, at <https://www.fcc.gov/voice-telephone-services-report>, last accessed 9/10/2019.

² CDC, National Center for Health Statistics, https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201712.pdf, last accessed 9/10/2019.

³ See Enacted LB 184, 2019: <https://nebraskalegislature.gov/FloorDocs/106/PDF/Slip/LB184.pdf>, last accessed 9/10/2019.



referred to as 5G. It is important to note, however, that larger wireless facilities (“macro towers”) continue to play a critical role in both providing enhanced wireless coverage in Nebraska, particularly in rural areas, as well as providing 5G in the near future. Macro towers provide wireless coverage to broader and larger areas than small cells and are continuously being updated to provide 4G LTE service to customers and, in fact, will also be upgraded to provide 5G services.

However, CTIA members have found that their ability to upgrade macro towers in Nebraska has been impeded by the use of siting consultants. Excessive delays and costly fees imposed by these consultants on wireless providers have hindered providers’ ability to update macro towers in a timely manner. For example, in one Nebraska jurisdiction it can take up to 10 months for that jurisdiction to simply approve an application for a collocation, and in another jurisdiction, it is virtually impossible to erect a new macro tower altogether. Such a scenario forces a wireless provider to deploy in an adjacent jurisdiction hoping coverage extends to the nearby community. Furthermore, we have found these consultants are imposing egregious permitting fees on wireless providers for simple modifications as well as requiring wireless providers to establish “retainer” escrow accounts with them before even commencing deployment.

Through the use of these consultants, Nebraska cities may be violating timelines established by federal law. In 2009, the Federal Communications Commission (FCC) established a “shot clock” requiring local governments make final decisions on all proposed wireless facilities. A decision is required within 150 days of receipt of a complete application for a new tower and within 90 days for a complete application for proposed wireless facilities on existing structures.⁴ In addition, in Section 6409(a) of the 2012 Spectrum Act, Congress required localities to approve applications for non-substantial collocations, removals or modifications on existing structures within 60 days.⁵ More importantly though, the excessive delays and costly fees imposed by these siting consultants are slowing wireless deployment to rural Nebraskans and, thus, depriving them of a robust wireless experience.

To that end, we would strongly encourage the Task Force recommend a legislative fix to remove these costly, unnecessary, and time-consuming consultant practices that impede wireless deployment.

Sincerely,

Gerard Keegan
Vice President, State Legislative Affairs
CTIA

⁴ See Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance (Nov. 18, 2009), *available at*: <http://apps.fcc.gov/ecfs/document/view?id=7020393456>, last accessed 4/23/2017.

⁵ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, Title VI, § 6409(a), codified at 47 U.S.C. § 1455.