



December 12th, 2016

The Honorable Gary Forcier
Mayor, Hutchinson, Minnesota
175 Arch Street SE
Hutchinson, Minnesota 55350

RE: Opposition to Ordinance 16-0765, Small Cell Moratorium

Dear Mayor Forcier,

On behalf of CTIA, the trade association for the wireless communications industry, I am writing to respectfully oppose Ordinance 16-0765 related to a moratorium on small cell wireless deployment in the public rights-of-way. The proposed ordinance is contrary to the interest of Minnesotans, would be harmful to consumers and future investment and also conflicts with federal law.

Consumers' demands for wireless connectivity is exploding as new devices, technologies and services are continuously coming online. Wireless data usage has nearly tripled in the last two years; U.S. consumers used 269.1 billion megabytes of data per month in 2013, but in 2015 that number had grown to 804.2 billion megabytes per month.¹ Specifically in Minnesota, there are more wireless connections than there are people with a wireless penetration rate of over 100%.² Indeed, nearly half of Minnesotans households are now wireless-only,³

In order to accommodate this demand, today's wireless networks need to be densified and updated in preparation for the rollout of the next generation of wireless networks, referred to as 5G. Small cells are the vehicle that will provide this densification and preparation for 5G. Small cells are wireless antennas, typically no more than six cubic feet in volume, and associated equipment generally less than twenty-eight cubic feet, that are being installed on existing structures like utility poles, street lights and traffic signal poles. Small cells enhance capacity on existing 4G LTE wireless networks by efficiently using scarce spectrum and will be required for higher-frequency 5G spectrum. The proposed ordinance, 16-0765, would prohibit installation of this wireless infrastructure in the public rights-of-way.

To prohibit and implement a moratorium on the installation of small cell facilities will hurt the City's ability to attract investment and realize the benefits of 5G. 5G networks will provide increased capacity to accommodate growing consumer demands and will connect 100 times more devices. Towns and cities will be able to leverage wireless technology and the Internet of Things to enable smart cities, allowing them to monitor public infrastructure and conditions and operate more cleanly and efficiently. Global smart city economic benefits are estimated to range from \$644 billion to \$1.2 trillion by 2025.⁴

¹ CTIA Annual Wireless Industry Survey for Year-End 2015, <http://www.ctia.org/your-wireless-life/how-wireless-works/annual-wireless-industry-survey>, last accessed 12/9/2016.

² FCC, Voice Telephone Services Report: Status as of June 2015, August 2016, at <https://www.fcc.gov/wireline-competition/voice-telephone-services-report>, last accessed 12/9/2016.

³ National Center for Health Statistics, "Wireless Substitution: State-Level Estimates from the National Health Interview Survey, 2015" (August 2016), http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201608.pdf, last accessed 12/9/2016.

⁴ Sawanobori, Thomas K. "5G: The Next Generation of Wireless: 5G Leadership in the U.S." (February 9, 2016), http://www.ctia.org/docs/default-source/default-document-library/5g_white_paper-web.pdf, last accessed 12/9/2016.



Enactment of policies comparable to those found within Ordinance 16-0765 will hinder Hutchinson, Minnesota's ability to realize these benefits. In addition to depriving the City and its citizens with enhanced network capacity and the benefits of 5G, enactment of a small cell moratorium conflicts with federal law. Section 253(a) of the Telecommunications Act of 1996 provides that "no State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."⁵ Similarly, Section 332 of the Communications Act states, in part, that "no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service."⁶ Courts have made clear that "entry" includes the placement of wireless facilities, and, therefore, state and local agencies lack the jurisdiction to prohibit wireless infrastructure deployment. By imposing a blanket ban on small cell wireless infrastructure deployment, the Ordinance would violate the Communications Act's limitations on state jurisdiction over entry for mobile services and the Telecommunications Act's ban on prohibiting entities from offering telecommunications service, and are, therefore, unlawful.

In closing, it is important to note that the wireless industry wants to meet the needs of its customers – who are also your constituents. Significant investments have been made in infrastructure to ensure that the industry can meet this robust, growing consumer demand for wireless service and broadband.⁷ However, in order to ensure that the wireless industry can continue to meet this demand in Minnesota, the industry's investment must be met with forward-looking infrastructure regulations that promote rapid and efficient deployment. The Ordinance before you, 16-0765, does not reflect such a forward-looking regulation. As such, we respectfully request its rejection.

Sincerely,

Bethanne Cooley
Director, State Legislative Affairs
CTIA

⁵ 47 U.S.C. § 253(a).

⁶ 47 U.S.C. § 332(c)(3)(A).

⁷ CTIA Wireless Industry Survey, The wireless industry made \$32 billion in capital investment in 2015 alone, and nearly \$100 billion in the last three years, not including further massive investments in spectrum at federal auction, *fn* 3.