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December 5, 2018

VIA FEDEX & EMAIL TO [NLRLEGAL@NLR.AR.GOV](mailto:NLRLEGAL@NLR.AR.GOV)

Amy Fields  
City Attorney  
City of North Little Rock  
116 Main Street  
North Little Rock, AR 72119

Re: Ordinance No. 9031 - Small Wireless Communication Facility Regulation

Dear Ms. Fields:

We appreciate the opportunity to provide comment on Ordinance No. 9031 adopted by the City Council of North Little Rock on July 23, 2018. Respectfully, a number of provisions in the Ordinance do not comply with the Declaratory Ruling and Third Report and Order recently adopted by the Federal Communications Commission on September 26, 2018 (FCC-CIRC1809-02; hereafter referred to as "FCC Order"). There are other comments and recommended revisions we'd like to offer to facilitate a timely deployment of small wireless facilities in your City by Verizon Wireless and other wireless providers. Please note that this letter is submitted for your consideration in accordance with the notice requirements set forth in Article 32 of the Ordinance. We offer the following comments:

1. **Section 2.2.4. Grant of Permits.** This Section authorizes the City and/or Utility to review and revise permits issued to wireless service providers after eight (8) years from the original date of approval. Since it generally takes wireless service providers a minimum of ten (10) years to recoup our economic investment for each deployment, we respectfully request that this Section be revised to allow for revisions to permits only after a minimum of ten (10) years.
2. **Section 2.3.4. General Restrictions.** Limiting the height of a wireless support structure to 35' is inconsistent with the FCC Order because such limitation is "more burdensome than those the state or locality applies to similar infrastructure deployments . . . ."
3. **Article 3. Fees and Charges.** While the ROW Fee (\$25/year) and Attachment Fee (\$200/year) included in Appendix A together are presumptively reasonable under the guidance set forth in the FCC Order, the Standard Application Fee, Non-Standard Application Fee, Reinspection Fee, and all other fees and charges that are set forth in the Ordinance taken together (in connection with inspections, inventory, application review, pre-construction facilitation, etc.) are inconsistent with the FCC Order because such fees exceed the allowable thresholds for the authorized non-recurring fees and annual right-of-way ("ROW") rates and, therefore, would constitute an effective prohibition of wireless

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telecommunications services under Section 253(a) or Section 332(c)(7) of the Communications Act. The FCC Order presumes the following fees to be fair and reasonable compensation: (a) \$500 for non-recurring fees, including a single up-front application that includes up to five small wireless facilities, with an additional \$100 for each small wireless facility beyond five, or \$1,000 for non-recurring fees for a new pole, and (b) \$270 per small wireless facility per year for all recurring fees, including a ROW use fee and a fee for attachment to municipally-owned structures in the ROW. Moreover, any increase in fees contemplated by Section 3.3.2 must be justified as necessary to recoup reasonable and actual costs incurred by the City to manage its ROW and the application process.

4. **Section 6.3.7. Submission of Application for Attachment Permit.** This provision prohibiting a wireless service provider from submitting more than one application at a time could result in a direct prohibition on the deployment of wireless services and will certainly delay deployment of small wireless facilities. Accordingly, this restriction should be deleted.
5. **Section 6.4 & 6.5. Review of Application for Attachment Permit & Review of Permit Applications for Installation in Public Right-of-Way.** These Sections should be updated to include the FCC Order's "shot clocks" or timeframes for review of applications for attachments and installation of new poles. The FCC Order adopted two new Section 332 shot clocks for small wireless facilities - 60 days for collocation of small wireless facilities on preexisting structures and 90 days for construction of new poles. Additionally, these Sections should be clarified to expressly state that whenever the City and/or Utility issues a denial of an application, the denial must include a detailed description of the reason for the denial.

In light of this review, we've also compared our existing Master Lease Agreement ("MLA") with the City to the FCC Order. As an initial matter, we note that the base rent amount of \$2500 as well as the 10% increase of the rent during each extension term exceeds the presumptively reasonable rates established in the FCC Order, as outlined above. Thus, we're hopeful that the City will re-examine each fee imposed by the MLA accordingly.

We're sending this letter to you at this time because we want to densify our network within your City at a greater pace while balancing the costs associated with this effort and taking into consideration the City's need to protect the health, safety and welfare of the citizens and businesses in your community. We want to work collaboratively with your office and the members of the City Council to address the concerns raised in this letter. To that end, we'd like to schedule a meeting with you at your earliest convenience. Thank you for your attention to this matter, and we look forward to receiving your reply.

Very truly yours,



Danielle C. Agee  
DCA/jdd

cc: Mr. Gerardo Carcamo, Verizon Wireless (via email [Gerardo.carcamo@verizonwireless.com](mailto:Gerardo.carcamo@verizonwireless.com))