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August 23, 2017

Hon. Ben Hueso  
State Capitol, Room 4035  
Sacramento, CA 94249-0080

**RE: SB 649 (Hueso) Wireless telecommunications facilities. – OPPOSE UNLESS AMENDED**

Dear Senator Hueso:

The Association of California Cities – Orange County (ACC-OC) represents the interests of the 34 cities in Orange County and would like to express its opposition to the proposed legislation, Senate Bill 649 (Hueso). The bill would establish a streamlined permitting process for communications facilities, and would severely restrict the fees that local governments may charge for placement of communications facilities. The bill would also limit the creation or erection of any unreasonable requirement for access to the public rights-of-way by communications providers, including delays in the negotiations and approvals for communications facilities. This is concerning to cities in Orange County and throughout the State, because it disables the ability for cities to make necessary discretionary decisions related to the aesthetic and safety of communications infrastructure within their jurisdictions.

Currently, communications service providers must receive a permit from a city or county to build for their infrastructure deployment. Where equipment is being added to an already existing structure providers must request approval to collocate on those facilities. Cities and counties cannot hinder additions to pole attachment in the public right-of way, but can oversee when those projects are taking place to ensure public safety, and that day-to-day city business is not disrupted. SB 649 aims to change the permitting process for communications facilities by redefining small cell structures, and removing discretionary permitting authority from cities and counties. This measure considers micro wireless technology as, no larger than 24 inches long, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, no longer than 11 inches, and specified small cell technologies. These definitions would require a local government to provide streamlined permitted use if it's located in a public right-of-way in any zone or in any zone that includes a commercial or industrial use. Additionally, this bill would mandate that a city or county make its vertical infrastructure available for the placement of small cells, and require automatic renewal of permits for telecommunications facilities. Removing these important land use zoning decisions from local governments, and usurping the public input processes through the adoption of ministerial designations is detrimental to the overall community.

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Further circumventing the jurisdiction of local governments is the restructure of facility use revenue collection. Right now, local entities are authorized to charge an annual fee for use of a pole structure, and can negotiate lease rates for small cell attachments on other publicly owned vertical infrastructure. Many cities use these proceeds to help offset costs for providing infrastructure to low-service areas or as another revenue source for their communities. This process is built on negotiations and years of relationship building between the city and the provider for a mutually beneficial cost-benefit. SB 649 would mandate cities to adopt a flat rate, annual, administrative permit fee charge not to exceed \$250 for each small cell attached to city or county vertical infrastructure. Other city charges for installation of telecommunications facilities will be calculated through the multiplication of a percentage of the total usable space that would be occupied by the attachment, and the annual costs of ownership of the vertical infrastructure and its anchor. The city or county shall not levy a rate that exceeds the estimated amount required to provide use of the vertical infrastructure. And if the rate creates revenues in excess of actual costs, the city shall use those revenues to reduce the rate. The only way a city would be able to amend this or negotiate this difference in cost is through a new public hearing process, that puts municipalities in litigious and potentially costly situations.

This measure would also eliminate the collection of any escrow or similar deposit for removal of such a facility. The revenues that a local government had been formally reliant on could change the level of services and prioritization of community projects that they had been offered based on this income. Ultimately, reducing the ability for cities and counties to negotiate for a productive and fair public benefit through lease, rent, and maintenance agreements removes yet another economic development tool for our municipalities. Given the circumstances, ACC-OC would advocate for an amendment that would change the fee structure to reflect a fair market value price for wireless installation, escrow, maintenance, removal, and attachment. This would maintain the goal of the bill to standardize pricing through a measurable determination, and also allow cities and counties the flexibility in financing options while retaining local infrastructure control.

ACC-OC has been at the forefront of wireless infrastructure issues, working with local leaders, and industry representatives to ensure project coordination between municipalities and small cell stakeholders through our “Small Cell Working Group”. This ad hoc working group has been in operation since ACC-OC’s inception and has successfully drafted Model-Encroachment Permits, worked with the County on a Wireless Infrastructure Ordinance, and has implemented guidelines for fair and non-discriminatory processes to accomplish new technological deployments. Allowing industry representatives and city officials to negotiate ordinances, agreements, and fee structures at the local level breeds the most cooperative outcome for communities and the constituents of service providers. Over the last several months, our working group has

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developed a [white paper](#) on small cells, providing educational information to cities by working with providers to find balanced solutions to small cell technology challenges. Unfortunately, SB 649 moves in the opposite direction of this white paper. Instead, this bill is prescriptive, delivers untested mandates, and recommends an entirely uncooperative process. The attached white paper further outlines the best practices used by industry leaders and cities, here in Orange County. This model of negotiations is not unique to our County and has continued to be duplicated statewide, but this bill would hinder those efforts. The assurances that can be made between stakeholders through this process has the potential for positive outcome for local governments, constituents, industry and promotes the general well-being of communities.

Cities require full discretionary review of small cell implementation and the deployment process. Public benefits negotiated through an already existing fair and reasonable development structure makes this bill unnecessary and punitive towards cities. For this and the reasons described above, the Association of California Cities – Orange County opposes SB 649, unless it is amended to reflect a fair market value fee structure, limited to small cell technologies. ACC-OC welcomes the opportunity to be used as a resource to you and your office on this bill, and encourages the adoption of our suggested best practices, and amendment as this bill advances in the legislative process. Should you have any questions about our position, the attached white paper or about ACC-OC, please contact Diana Coronado, ACC-OC's Legislative Affairs Director, at (714) 953-1300 or at [dcoronado@accoc.org](mailto:dcoronado@accoc.org).

Sincerely,

Heather Stratman  
Chief Executive Officer  
Association of California Cities – Orange County

cc:

Orange County Legislative Delegation  
ACC-OC Board of Directors