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Hearing on HB 654

(Favor HB 654)

“Wireless Facilities – Installation and Regulation”

before the

Committee on Economic Matters

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Mr. Chairman and Distinguished Members of the Committee,

Good afternoon. My name is Michael Horney, and I am a Research Fellow at The Free State Foundation, an independent, nonpartisan research and educational institution located in Rockville, Maryland. The Free State Foundation is a free market-oriented think tank focusing heavily on communications and Internet law and policy. Thank you for the opportunity to present this testimony on HB 654, which was prepared by me and Free State Foundation President Randolph May. We favor the adoption of small wireless facilities legislation such as HB 654.

HB 654 would streamline the deployment of small, next-generation wireless facilities by creating uniform rules across Maryland's many local jurisdictions. HB 654 would establish nondiscriminatory guidelines, cost-based fees, and strict deadlines for local governments to act on applications for deployment. By establishing more regulatory certainty for Maryland's wireless broadband providers, build-out of next-generation wireless networks will not be unduly delayed. Importantly, HB 654 ensures that the deployment of small wireless facilities would not interfere with the delivery of emergency, public safety, or health services. If passed, legislation like this will create tremendous economic and social benefits for Marylanders.

The next generation of wireless network infrastructure will employ 5G technology. Previous generations of wireless technology used macro cells requiring tall cell towers, often located along highways. 5G will feature the dense placement of small cells every few blocks, involving up to 100 times more cells than 4G. The dense deployment of numerous small cells will deliver a much more robust wireless broadband connection than 4G, with lower latency and speeds up to 10 to 100 times faster than 4G.

5G wireless technology is anticipated to produce very large economic and social benefits in the United States. According to a January 2017 report by Accenture, 5G is projected to create \$275 billion in investment, 3 million jobs, and \$500 billion in gross domestic product throughout the United States. These figures correspond to roughly \$5.5 billion in investment, 60,000 jobs, and \$10 billion in gross domestic product in Maryland. These additional benefits will be sustained over the long-term as the increased network capacity and capabilities of 5G technology produce new innovations and technologies.

When 5G technology is deployed, localities will be able to enjoy smarter and more efficient use of local government services such as energy, utilities, transportation, and public safety, saving the localities millions of dollars. For example, smart lighting automatically will dim public street lights when no pedestrians or vehicles are present. Smart lighting is estimated to save \$1 billion annually throughout the United States, corresponding to about \$20 million annually in Maryland. Public transportation will be able to reduce wait times by optimizing bus and train schedules with commuter smartphones. Real-time information regarding on-street parking spaces combined with a smart metering system could increase parking revenue by 27%. Vehicle-to-vehicle communications will minimize congestion and lead cars through hazardous road conditions. The use of autonomous vehicles will reduce fuel consumption and the amount of emissions. Furthermore, if one-in-four vehicles on the road is autonomous, travel times will decline by 40% and traffic delays by 20%.

When it comes to public safety, deployment of small cells and the advanced capabilities of 5G networks will save lives. High-speed video surveillance will allow first responders to assess crime scenes and dangerous situations before arriving. Real-time monitoring of gunshots will provide the police with exact locations and a timeline of events. A one-minute reduction in response time by first responders translates to an 8% reduction in mortality. Moreover, sensors with 5G technology will warn local residents about possible emergencies, such as tornadoes, flooding, or security threats.

Many of these innovations and technologies are not practical without robust 5G networks. And without passage of HB 654 or similar legislation, broadband providers will have less incentive to invest in small cell deployment throughout Maryland, particularly in rural and suburban areas where deployment is more costly. The reason this legislation is necessary at the state level is because passage of small cell legislation signals to wireless broadband providers that they can begin investing in network infrastructure in any Maryland jurisdiction without incurring undue delays and/or the costs of any unreasonably burdensome regulations or fees.¹ Currently, there are twenty-one states that have adopted legislation similar to HB 654 – two of which are neighboring Virginia and Delaware. If Maryland wants to realize the economic benefits of 5G and retain businesses and the respective tax revenue those businesses generate, the Maryland General Assembly should pass small cell legislation soon.

While providing safeguards to prevent wireless providers from deploying in areas that would interfere with safety operations, traffic control equipment, sight lines, and zones for transportation or pedestrians, HB 654 creates statewide guidelines to ensure that local governments cannot impose excessive regulations or fees on wireless providers as they begin to build thousands of small cells across the state.

Here are some of the ways HB 654 would streamline small cell deployment in Maryland.

HB 654 would require local governments to employ "shot clocks" to ensure timeliness in their decisions regarding a wireless provider's application for processing small cell facilities. Specifically, HB 654 would require local governments to verify applications are complete within 10 days of their receipt, make a decision on collocation requests within 60 days, and make a decision on applications to install, modify, or replace a pole attachment within 90 days. Moreover, HB 654 rightly clarifies that if a locality fails to make a decision within the designated timeframe, the permits shall be deemed to be approved. These shot clocks ensure timely decisions by local authorities and will expedite the application and permit processes necessary for small cell deployment throughout Maryland.

Under HB 654, fees and terms and conditions assessed to wireless providers pertaining to the placement of small cells must be nondiscriminatory and competitively neutral, meaning local governments must levy fees or impose terms and conditions on all competitors in an equal

¹On September 26, 2018, the Federal Communications Commission (FCC) adopted a Third Report and Order requiring localities to employ nondiscriminatory guidelines, cost-based fees, and deadlines for approving applications for small cell deployment. That Order is being challenged by twenty-four cities and counties before the U.S. Court of Appeals for the Ninth Circuit. Relative to the FCC's Order, HB 654 requires shorter deadlines for local governments processing applications for deployment. In this respect, HB 654 would advance small cell deployment in Maryland more rapidly than the FCC's Order, if it is upheld.

fashion. This creates a level playing field for wireless providers of all sizes and throughout all jurisdictions in Maryland.

HB 654 also requires that all rates and fees charged to wireless providers must be based on a good faith estimate for any make-ready work. In other words, fees cannot be excessive, far exceeding the costs incurred by the local government.

HB 654 also ensures that local governments do not impose additional fees or requirements on wireless providers for replacing small cells in the future, so long as those cells are similar in size and design to the ones being replaced. This gives providers an additional incentive to invest in and upgrade 5G wireless networks in the long-term.

Currently, with regard to wireless broadband deployment, Maryland has no regulations requiring local governments to use shot clocks when processing applications, to limit the amount of pole attachment fees, or to ensure that rules and fees are nondiscriminatory and competitively neutral. This is why small cell legislation like HB 654 is desirable.

In sum, legislation like HB 654 would streamline wireless providers' ability to deploy small cells in Maryland, accelerating Marylanders' access to 5G connectivity and the substantial economic benefits that the newest generation of wireless broadband services will bring. Such streamlining will foster the development of life-saving technologies, produce significant cost savings for localities, and prevent businesses and tax revenue from migrating to neighboring states that have already adopted similar legislation.

Thank you for considering this testimony.