

Alan S. Tilles, Esquire

Counsel

Government Wireless Technology & Communications Association

12505 Park Potomac Ave., Sixth Floor

301-230-5200

atilles@shulmanrogers.com | www.gwtca.org



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GWTC A ADVISORY – FCC SMALL CELL DECISION & REASONABLE RATES

The Government Wireless Technology & Communications Association (“GWTC A”) ¹ has become aware that some industry stakeholders have been representing that the Federal Communications Commission’s September 2018 Declaratory Order in WT Docket No. 17-79 sets a \$270 per pole, per year **maximum** fee that a municipality can charge for small cells sited in municipal rights-of-way or on municipal infrastructure.

Such interpretations are a misreading of the FCC’s Order.² As stated by AT&T in the proceeding, “... the Section 253/332 Order neither mandated a particular fee nor set a flat fee. Rather, the Commission ... recognized that certain fee amounts would be considered ‘presumptively reasonable’ under Section 253.”³

In the event that a municipality wishes to access charges in excess of the \$270 amount, the charges may be lawful if the charges represent a reasonable approximation of actual costs, and those costs are non-discriminatory. In fact, some municipalities have adopted ordinances, post-release of the Order, which provides for higher fees per pole.⁴

GWTC A, in conjunction with multiple municipal leagues and cities, submitted the only Petition for Reconsideration of the FCC’s Order. We continue to work with municipalities and other concerned entities regarding the FCC’s Order and other wireless issues.

¹ GWTC A is a non-profit trade association created to advocate on behalf of government and non-government users of wireless technology and communications in the public service industries, such as public transit. More information is available here: www.gwtca.org.

² <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>.

³ [https://ecfsapi.fcc.gov/file/10222140998148/AT%26T%20Opposition%20to%20New%20Orleans%20PFR%20\(02.22.19\).pdf](https://ecfsapi.fcc.gov/file/10222140998148/AT%26T%20Opposition%20to%20New%20Orleans%20PFR%20(02.22.19).pdf)

⁴ <https://www.govtech.com/network/New-Orleans-City-Council-Approves-5G-Infrastructure-Framework.html>.