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July 12, 2012

The Honorable Julius Genachowski, Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

WFB
Sitting
9/16

Dear Chairman Genachowski:

I write to express my concern with the worldwide American Tower Corporation (ATC) installing 60 Distributed Antenna System (DAS) units mounted on high poles on residential properties throughout Northampton Township, in my Congressional district, the 8th District of Pennsylvania. The FCC has a significant opportunity to reinforce the importance of local control over arbitrary national and global influence.

As you know, the 1996 Federal Telecommunications Act (TCA) allows cellular towers to be regulated by local zoning ordinances. Clearly, these DAS units, which are mounted at the top of 25 to 50-foot poles for the purpose of providing wireless communications services, are cell towers. Thus, ATC should abide by township regulations regarding the installation of the DAS units. Northampton Township zoning ordinances prohibit the placement of cell towers within 300 feet of a private residence.


Additionally, ATC argues that since it has been classified as a public utility by the Pennsylvania Public Utility Commission, it complies with the Northampton Township right-of-way management ordinance, which allows for utilities to be placed along public streets and other areas. However, ATC's classification as a "public utility" does not change the fact that ATC is a telecommunications infrastructure provider, and thus is not exempt from abiding by local ordinances. In fact, the TCA limits local government regulation of telecommunications companies only if a "significant gap" in wireless service exists, and also if installing these cell towers are the least intrusive means of filling that gap. ATC has neither demonstrated that a significant gap in service exists in Northampton Township nor that the wireless needs of residents thereof are not being met. As for the latter TCA standard, the citizens' concerns regarding the potential health, environmental and economic impacts of these cell towers severely call into question whether this is the least intrusive means of providing efficient wireless service to Northampton Township.

Therefore, I respectfully request that the FCC exercise its authority under the TCA to regulate DAS unit poles as cell towers. I also ask that the FCC support local regulation of tower placement when it is in accordance with federal law.

24 JUL 2012 RCUD

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Fitzpatrick", with a stylized flourish at the end.

Michael G. Fitzpatrick
MEMBER OF CONGRESS