



**Testimony in Support of SB 68**  
**House Energy, Utilities and Telecommunications Committee**  
**March 14, 2019**

Chairman Seiwert and Members of the Committee:

My name is Michael Bagley and I am the Director of State Public Policy for Verizon, covering several states, including Kansas. I appreciate the opportunity to testify today in support of SB 68.

Verizon is currently moving forward throughout the United States to deploy the technology infrastructure that will serve as the foundation for 5G services, the next level of evolution in wireless technology. The densification of small wireless facilities, or small cells, creates the framework by which 5G will be possible. Small cells are needed to meet the exploding consumer demand for data, spur economic development, and to drive innovation for smart cities, connected cars, intelligent traffic solutions, and a variety of other consumer-demanded needs.

Verizon is very pleased to have previously worked with this Committee, the League of Kansas Municipalities, and other stakeholders passed the first statewide small cells legislation in the United States, the Kansas Wireless Siting Act. The bill created a straight-forward set of rules for municipalities and companies to ensure the deployment of small wireless facilities. The Act provided for municipalities to maintain oversight and management of the public Right of Way (ROW), with carriers compensating municipalities for use of the ROW and municipally-owned structures.

The Act also incorporated language taken directly from existing statutes to ensure that municipalities had the necessary safeguards and means to address any concerns with activities in the ROW. The wireless industry believed this first-of-its-kind legislation would pave the way to streamlined, economical small cell deployment, bringing improved wireless services to Kansas, along with jobs and other economic benefits.

However, following the Act's passage, when Verizon moved forward with deploying small cells, we found that some larger municipalities had decided to circumvent the Act and ignore legislative intent by requiring wireless service providers to enter into costly and burdensome franchise – a process not authorized by the Act or the franchise statute – in order to deploy small cells. We quickly learned that these negotiations take months or even longer than a year to complete, and are an attempt to extract extra fees and charges from those seeking to bring improved wireless technology to Kansas.

One of the challenges that emerged, and which only demonstrated that franchise agreements were never intended to be applied to the deployment of small wireless facilities, was charging franchise fees based on “gross receipts.” This was not practical since wireless service is mobile, unlike landline phone and cable services that serve a particular, geographically-specific customer base. The negotiations thus resulted in a “per node” fee, based on a formula paid by infrastructure providers’ gross receipts. Because infrastructure providers pass their costs on to wireless providers, they lacked the same incentive to negotiate reasonable fees that wireless providers had. Unfortunately, the infrastructure providers’ agreements became the model for cities to charge wireless providers, without many of them even having a seat at the table.

Thus, despite passage of the Kansas Wireless Siting Act, companies have essentially been held hostage for extra fees by cities requiring a franchise agreement – and additional fees – on top of a Master License Agreement (MLA) and the fees expressly authorized by the Act. This has left companies like Verizon with two untenable paths: they can either refuse to enter into franchise agreements, thus depriving their customers of service improvements and expansion; or they can enter into franchise agreements to address the urgent customer demand for data capacity and to ensure the access and viability of the 911 system, but be compelled to pay additional municipal fees on top of those authorized in the Act.

However, we are pleased to advise the Committee, that after significant negotiations following SB 68’s Senate introduction, the wireless industry and the League of Kansas Municipalities (LKM) came to a mutual compromise to address cities’ concerns, resulting in LKM is taking a neutral position on this legislation.

SB 68 simply moves away from utility-type franchise agreements for a non-utility service, and instead establishes multiple options to govern ROW use specific to wireless small cell facilities. Cities will not be able to require franchise agreements, but will retain the ability to control their public rights of way through a variety of means, including small cell facility deployment agreements, master license agreements, permits, municipal ordinances or codes, or any combination of such mechanisms in a manner consistent with federal and state law. They will also be compensated for the use of the ROW, as bill specifies that cities may assess a fixed right-of-way fee for each small cell facility, instead of fees based on gross revenues. With the negotiated changes and cooperation with the League, we are pleased that the bill passed the Senate 40 – 0.

Mr. Chairman and Members of the Committee, thank you again for the opportunity to testify. I urge the immediate passage of this legislation which will advance wireless technology deployment in the State of Kansas, and reject any proposals for hostile amendments. Thank You.