

## Democratic Congressional Leaders Accuse FCC of Collusion in Small Cell Ruling

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In a letter to FCC Chairman Ajit Pai dated January 24, 2019, the heads of the House Energy and Commerce Committee and the Subcommittee on Communications and Technology accused the agency of colluding with telecom companies to win court approval for a ruling that limits fees and approval processes for small cell deployments. [Click here](#) to view the letter.

When the FCC approved the rule change in September 2018, it was positioned as a necessary step to meet the needs of 5G and speed up the deployment of small cells and other telecom equipment. Regulators limited the fees that cities and states can charge for small cell installations and set reduced timelines for the approval process.

Cities must now act on applications within 60-90 days and can only charge a \$100 application fee and an annual \$270 fee per small cell. The move drew criticism from local officials who believe the FCC overstepped its authority, and many continue to call for an appeal or outright reversal of the ruling.

As discussed in previous [MM&C articles on this topic](#), many local governments have combined forces to appeal the FCC Order. The U.S. Court of Appeals for the 10th Circuit denied the cities' request for a stay, the FCC's Declaratory Ruling and Third Report and Order on small cell deployment went into effect on January 15, 2019. The cities' appeal has moved to the 9th Circuit.

According to MM&C Telecommunications Attorney, Sean Hughes, *"I suspect that this debate and accompanying legal and legislative maneuvering is going to continue. Between the Fed's actions to streamline 5G infrastructure development for the consumer, which is nearly everyone (considering there are over 400 million wireless devices active in the United States), versus local government efforts to prevent or roll back Federal preemptions that are limiting local government review authority and citizen involvement over wireless development requests."*

The telecommunications land use attorneys at Miller, Miller & Canby are experienced in Maryland, D.C. and Virginia's 5G Wireless and Small Cells Zoning. Our telecommunications, zoning attorneys and real estate attorneys are closely monitoring the impacts of the FCC order and the efforts of local legislatures to craft small cell legislation in order to be able to advise telecommunications carriers and potential landlords.

**Sean P. Hughes** is an attorney in Miller, Miller & Canby's Land Use practice group. His career spans more than two decades of focus in legal and wireless telecommunications and he has represented clients in land use and zoning matters throughout the Mid-Atlantic. To learn more about the firm's Land Use and Zoning practice, [click here](#).

**Cathy Borten** is an associate in Miller, Miller & Canby's real estate practice group. She focuses in commercial real estate transactions and leasing, real estate litigation, land use and zoning and commercial financings and settlements. Cathy has over 10 years' experience in leasing, land use and zoning in the wireless telecommunications industry. Cathy also participated in the drafting of the Montgomery County and City of Gaithersburg original small cell ordinances. To learn more about the firm's Real Estate practice, [click here](#).