



10/18/2017

Crown Castle and wireless permitting in California

A presentation to the Association of Community Development Directors / Planning Directors of San Mateo County ("21 Directors")

The Foundation for a Wireless World.

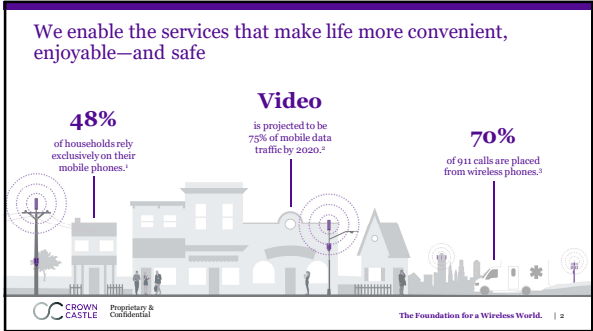



We enable the services that make life more convenient, enjoyable—and safe

48%
of households rely exclusively on their mobile phones.¹

Video
is projected to be 75% of mobile data traffic by 2020.²

70%
of 911 calls are placed from wireless phones.³

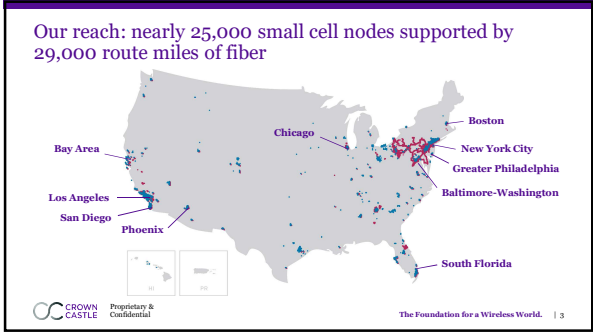





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Our reach: nearly 25,000 small cell nodes supported by 29,000 route miles of fiber





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Wireless demand is creating a need for new infrastructure.




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Demand for mobile data is projected to grow


Mobile devices



447 M
947 M

From 2015 to 2020

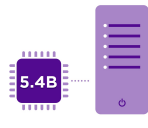
Wearable devices



18x

By 2020

Machine-to-machine connections



5.4B

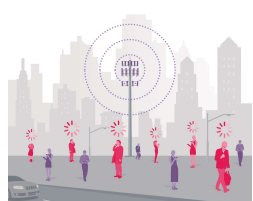
By 2024

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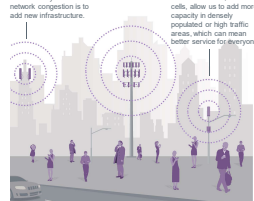
Increased demand creates congestion—which can only be relieved by additional infrastructure

Congestion



Capacity

The best way to relieve network congestion is to add new infrastructure.



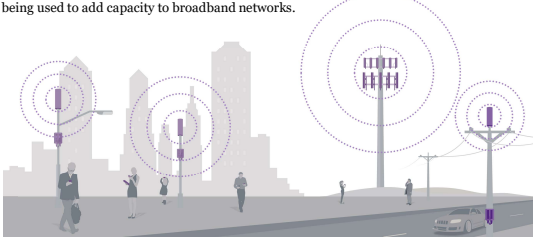
New innovations, like small cells, allow us to add more capacity in densely populated or high traffic areas, which can mean better service for everyone.

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The right infrastructure for your community

A newer type of infrastructure called small cell solutions (SCS) is increasingly being used to add capacity to broadband networks.




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Small cells and towers at a glance



Towers

- Tall. Visually prominent.
- High powered. Data signal can degrade over distance.
- Good for voice.
- Not always ideal for data.
- Best for low-density populations.
- Subject to FCC guidelines.



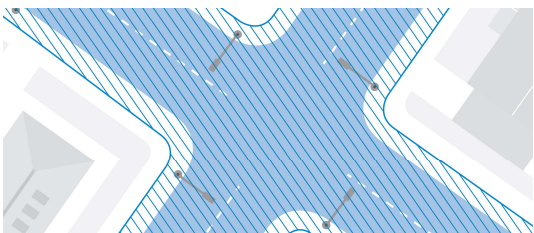
Small Cells

- Discreet. Lower to the ground.
- Low powered. Each node covers a small area.
- Good for voice and data.
- Good complement for dense areas with high capacity needs.
- Typically in the public right-of-way.
- Subject to PUC guidelines.

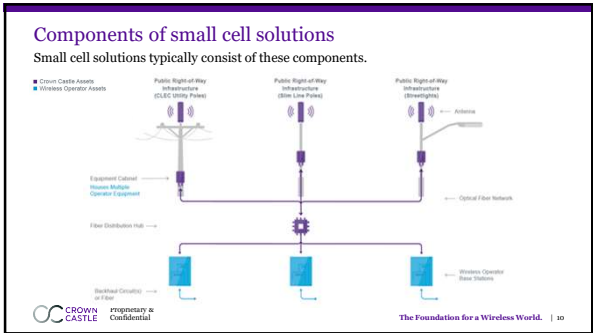
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SCS are typically placed in the public right-of-way

Our status as a CLEC allows us to deploy infrastructure here.



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Safe for your community

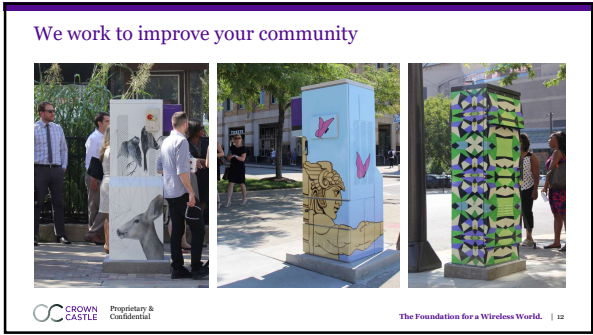
Installations are categorized far below the FCC-mandated levels

Equipment meets ANSI standards

Installations will not interfere with other devices

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Municipal Obligations under Federal law

- Cannot act in a discriminatory fashion: §253 requires that small cell applications be processed in a “*competitively neutral*” manner
- In **CA** – 7901.1 requires of Cities: “all control, to be reasonable, shall, at a minimum, be applied to all entities in an equivalent manner.”
- But ... Congress specifically preserved local zoning authority over “*personal wireless services facilities*”, subject to important limitations:
 - ❖ Must act in “*reasonable time*”, as further defined by FCC
 - ❖ Can’t discriminate among functionally similar providers
 - ❖ Decisions must be in writing and supported by substantial evidence on the record
 - ❖ Decisions to deny cannot be based on perceived RF health effects

332(c)(7) Preservation of local zoning authority

(X) General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) Limitations

(f) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(1) *what is*

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(iv) A State or local government or instrumentality thereof shall act on any request for authorization of a loan or loan guarantee only if the loan or loan guarantee is a reasonable means of financing the project to be financed.

instrumentality, taking into account the nature and scope of each request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that

is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (b) may petition the Commission, for relief

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FCC Rules: Shot Clock Order

- Post-adoption, there were disputes between municipalities and applicants as to what is "reasonable time" to consider an application, as municipalities set complex application requirements
- FCC acted in 2009 to set presumptively reasonable time frames:
 - ❖ **90 days for collocations:** Existing poles
 - Defined as "the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes."
 - ❖ **150 days for all other applications:** New poles
 - ❖ **May be tolled** by notifying applicant within 30 days of filing that an application is incomplete
- The **only remedy** for a shot clock violation is a federal lawsuit filed within 30 days – this is a very limited remedy.
- **Modified in CA by AB 57** – failure to comply with Shot Clock results in "deemed granted"



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FCC Rules: 2014 Infrastructure Report and Order

- After the 2009 Shot Clock Order the FCC acted again in 2014 to clarify Shot Clock as follows:
 - ❖ **Confirm that DAS and small cell deployments are subject to the same presumptively reasonable timeframes**
 - ❖ Timeframes begin when application submitted. **Municipality must determine incompleteness within 30 days:**
 - To toll shot clock, additional information request must specify code provision, ordinance, application instructions, etc. that require the submission of that information
 - Municipality has 10 days for 2nd rejection of supplemental information, after which there is no further tolling
- **Shot Clock runs regardless of moratorium** on siting applications, and applicant may challenge when shot clock expires without government action



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Collocation by Right



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Middle Class Tax Relief & Job Creation Act

6409(a) Facility Modifications

(1) **In General.** Notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, a State or local government may not deny, and shall approve, any *eligible facilities request* for a modification of an *existing wireless tower or base station* that does not *substantially change* the physical dimensions of such tower or base station.

(2) **Eligible Facilities Request.** For purposes of this subsection, the term "*eligible facilities request*" means any request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.



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FCC Rules: Broadband Acceleration Order

FCC acted in 2014 to confirm key definitions:

- **Tower:** any structure built for the sole or primary purpose of supporting FCC-licensed or authorized antennas and their associated facilities
- **Base Station:** any structure other than a tower that, at the time the relevant application is filed, supports or houses equipment associated with wireless communications service – e.g., radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including DAS and small cell networks)
- **Existing:** tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of the definition



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FCC Rules: Broadband Acceleration Order

FCC acted in 2014 to provide clarification:

- Governing authority may require:
 - ❖ Only sufficient information to determine if request is an EFR
 - ❖ Compliance with objective building/electrical or safety codes, etc.
 - ❖ Proof of need *may not* be required
- 60 day "deemed granted" remedy for applicants:
 - ❖ Applicant must assert in writing that the request is covered by 6409(a)
 - ❖ Must notify municipality in writing after the review period has expired
 - ❖ Any Municipal denial can be challenged in court within 30 days of denial



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Tips: Determining “Substantial Change”

Towers Outside ROW	Towers/Base Stations Inside ROW
> 10% or 20 ft. increase in height, whichever is greater	> 10% or 10 ft. increase in height, whichever is greater
Protrusion of > 20 ft. or width of tower, whichever is greater	Protrusion of > 6 ft. from the edge of the structure
Installation of > standard number of cabinets, not to exceed 4	Installation of any new cabinets on the ground if no pre-existing ground cabinets, or else involves installation of ground cabinets that are 10% greater in height or volume than any ground cabinets
Entails excavation or deployment outside the current site	Entails excavation or deployment outside the current site
Would defeat the concealment elements of the structure	Would defeat the concealment elements of the structure
Does not comply with conditions of original siting approval	Does not comply with conditions of original siting approval



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Thank You

FOR FURTHER INFORMATION
PLEASE CONTACT:

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