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October 6, 2016

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Ms. Marlene Dortch
Secretary
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

Re: WT DOCKET NO. 15-180
Summary of Ex Parte Meeting

Dear Ms. Dortch:

This letter summarizes for the record an *ex parte* meeting yesterday at the Commission's offices between myself and Eric Steinmann representing PTA-FLA, Inc., and Erin McGrath of Commissioner O'Reilly's office. The purpose of the meeting was to discuss our concerns about the scope of the FCC's involvement in the historic preservation review process codified in Section 106 of the Act, and to highlight inefficiencies in the Commission's current procedures for resolving disputes with Indian tribes regarding the fees assessed by the tribes for reviewing proposed construction projects.

I summarized the history of the FCC's interpretation of which constructions constitute a federal undertaking under the National Historic Preservation Act and relevant court precedents that seem to conflict with the FCC's current view of what constitutes such an undertaking. We explained how in the absence of guidance or control by the Commission, more and more tribes are charging higher and higher fees to review proposed construction projects with no evidence that the process is efficiently serving the purpose of identifying historically significant Indian sites.

Ms. Marlene Dortch
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Page 2

Mr. Steinmann outlined his company's history as a small independent CMRS carrier and long-time tower constructor, as well as suggesting measures such as an industry-supported or insurance-based fund to deal with the extremely rare instances of unexpected Indian historic artifacts being discovered in the course of construction activity.

I noted that I had filed a Petition for Declaratory Ruling in early May of this year seeking Commission guidance and remediation on the above issues, but the Petition has yet to be put on public notice for public comment, much less acted on. In the meantime, tower construction companies are faced with long delays and significantly increased costs of construction for an issue that virtually never is cause for concern.

We gave Ms. McGrath a copy of the Petition and sought Commissioner O'Reilly's support in moving the process forward.

Sincerely,



Donald J. Evans
Counsel for PTA-FLA, Inc.

Attachment
cc: Erin McGrath