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Commission's Secretary  
Office of the Secretary  
Federal Communications Commission

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
Washington DC

Re: Draft Program Comment for the Federal Communications Commission's Review of Collocations on Certain Towers Constructed without Documentation of Section 106 Review

Dear Commission Secretary and Chairman Pai:

We are responding to your request for comments regarding Federal Communications Commission (FCC) draft Program Comment for certain towers (i.e., towers constructed after March 16, 2001 and before March 7, 2005) constructed without documentation of Section 106 review, also commonly referred to as "Twilight Towers." The Program Comment proposes to allow collocation on "Twilight Towers" under the same Section 106 requirements and exclusions as outlined for towers constructed prior to March 16, 2001 as detailed in the FCC's Programmatic Agreement (PA) for Collocations.

We have previously provided FCC with our recommendation regarding this issue. Specifically, we recommended:

"[New Mexico SHPO recommends that] all collocations on twilight towers for which no Section 106 consultation record exists are treated like new towers for assessing direct or indirect effects. There can be no way to assess whether the original tower had an adverse effect on historic properties without an archaeological survey of the tower area to assess direct effects as well as a file search to assess visual effects. There can also be no way to assess whether a collocation on an existing tower that has no Section 106 record has the potential to affect historic properties. In our state, we have examples of existing towers with no Section 106 record that have both directly and visually (indirectly) affected historic properties and additional collocations or work at these towers had the potential to further affect historic properties" (see NM SHPO comments, WT Docket No. 17-79).

It remains our position that treating "Twilight Towers" as new towers is the best path forward to identify out-of-compliance towers that have resulted in adverse effects to historic properties. Another option would be to require all initial collocations on proposed "Twilight Towers" to go through a standard collocation consultation with SHPOs (i.e., no

exemptions on initial collocations), which would allow SHPOs the opportunity to review these towers for existing and potential adverse effects to historic properties.

In our view, some means to review these towers is consistent with original intent of the PA for Collocations of Wireless Antennas in which collocations can be proceed without going through the Section 106 process for towers constructed on or prior to March 16, 2001. The currently drafted Program Comment proposes to extend the original date of March 16, 2001 to include all "Twilight Towers," which was not the intent of the original PA for collocations. That is, once the PA for collocations became effective, it was implicitly clear that all newly constructed towers were required to go through the Section 106 process, and if they did not go through this process the allowances made for collocations on towers constructed prior to March 16, 2001 would not apply to these towers.

We appreciate the opportunity to provide NM SHPO's comments regarding the FCC's proposed Draft Comment pertaining to "Twilight Towers." We look forward to having additional opportunity to discuss this matter.

Sincerely,



Andy Wakefield  
Archaeologist