

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Accelerating Wireless Broadband Deployment	)	WT Docket No. 17-79
by Removing Barriers to Infrastructure	)	
Investment	)	
	)	
Comment Sought on Draft Program Comment	)	
for the Federal Communication Commission's	)	
Review of Collocations on Certain Towers	)	
Constructed without Documentation of Section	)	
106 Review	)	

**REPLY COMMENTS OF T-MOBILE USA, INC.**

The record compiled in this proceeding includes strong support for the proposed Program Comment to review collocations on so-called “Twilight Towers.”<sup>1</sup> T-Mobile USA, Inc. (“T-Mobile”) agrees that the Program Comment will serve the public interest by enabling use of these towers for collocations that will benefit consumers and rural communities while meeting historic preservation goals. As commenters demonstrate, the Program Comment would provide a targeted exclusion for qualifying collocations on Twilight Towers – consistent with the Advisory Council on Historic Preservation’s (“ACHP”) rules – without foreclosing opportunities to raise concerns regarding the underlying towers.

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<sup>1</sup> See *Comment Sought on Draft Program Comment for the FCC’s Review of Collocations on Certain Towers Constructed without Documentation of Section 106 Review*, Public Notice, 32 FCC Rcd 10715 (2017) (“*Public Notice*” or “*Draft Program Comment*”). Twilight Towers are towers built between March 16, 2001, and March 7, 2005, that “either did not complete Section 106 review or cannot be documented to have completed such review.” *Id.* at 10715.

## DISCUSSION

### I. THE RECORD SHOWS THAT THE PROGRAM COMMENT WILL BENEFIT CONSUMERS AND MEET HISTORIC PRESERVATION GOALS.

The record confirms the many public interest benefits associated with adopting the proposed Program Comment – including accelerating broadband deployment and helping to bridge the digital divide – while at the same time protecting historic properties.

First, numerous commenters agreed that the Program Comment will benefit consumers by freeing up additional infrastructure to support broadband deployments.<sup>2</sup> CCA, for example, “strongly supports the Commission’s proposal,” which “would further wireless infrastructure deployment and bring substantial improvements in broadband deployment and services.”<sup>3</sup> Likewise, CTIA and WIA called the draft Program Comment “an efficient and effective means of making Twilight Towers available for collocations,”<sup>4</sup> and AT&T commended its potential to “rapidly make available thousands of existing towers to support wireless broadband deployment.”<sup>5</sup> Indeed, “unlocking these towers – about 4,300 in total – could facilitate as many as 6,500 additional collocations.”<sup>6</sup> And Verizon agreed with T-Mobile that by making more

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<sup>2</sup> See, e.g., Comments of AT&T Services, Inc., WT Docket No. 17-79, at 2 (Feb. 9, 2018) (“AT&T Comments”); Comments of the Competitive Carriers Association, WT Docket No. 17-79, at 2 (Feb. 9, 2018) (“CCA Comments”); Joint Comments of CTIA and the Wireless Infrastructure Association, WT Docket No. 17-79, at 6 (Feb. 9, 2018) (“CTIA/WIA Joint Comments”); Comments of Mobile Future, WT Docket No. 17-79, at 4-5 (Feb. 9, 2018) (“Mobile Future Comments”); NTCA–The Rural Broadband Association, WT Docket No. 17-79, at 3 (Feb. 9, 2018) (“NTCA Comments”); Comments of T-Mobile USA, Inc., WT Docket No. 17-79, at 3 (Feb. 9, 2018) (“T-Mobile Comments”); Comments of Verizon, WT Docket No. 17-79, at (Feb. 9, 2018) (“Verizon Comments”).

<sup>3</sup> CCA Comments at 2.

<sup>4</sup> CTIA/WIA Joint Comments at 6.

<sup>5</sup> AT&T Comments at 2.

<sup>6</sup> Mobile Future Comments at 4-5.

effective use of existing infrastructure, “consumers will benefit” from increased network coverage and improved broadband wireless service.<sup>7</sup>

In addition, while the proposal to remove the existing barriers to collocations on Twilight Towers can help increase broadband deployment “in all areas,”<sup>8</sup> the record shows that rural communities in particular stand to benefit. As T-Mobile explained in its initial comments, collocation on existing infrastructure can reduce deployment timelines and potentially enable the company to accelerate its 600 MHz deployment plans to “reach new customers and bring competition to new parts of the country, particularly in rural areas.”<sup>9</sup> Verizon similarly noted that the draft Program Comment “will help bridge the digital divide” by “freeing up existing towers in rural areas for the placement of advanced wireless service facilities.”<sup>10</sup> And NTCA recognized that the proposed Program Comment, along with other streamlining efforts, “will allow rural communities to benefit from new or expanded broadband services.”<sup>11</sup>

At the same time, the record demonstrates that the Program Comment balances historic preservation goals.<sup>12</sup> First, the Program Comment would “reduce the need for new towers,”<sup>13</sup> which CTIA and WIA explained “reduces potential effects on historic properties.”<sup>14</sup> Second, the Program Comment “carefully tailors the exclusion to require more thorough review in the rare

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<sup>7</sup> T-Mobile Comments at 3; Verizon Comments at 3.

<sup>8</sup> NTCA Comments at 3; *see also* Verizon Comments at 4.

<sup>9</sup> T-Mobile Comments at 3.

<sup>10</sup> Verizon Comments at 3-4.

<sup>11</sup> NTCA Comments at 5-6.

<sup>12</sup> *See, e.g.*, AT&T Comments at 2; CTIA/WIA Joint Comments at 6-8; Mobile Future Comments at 5; Verizon Comments at 4; T-Mobile Comments at 3.

<sup>13</sup> AT&T Comments at 2; *see* CTIA/WIA Joint Comments at 6-8; Verizon Comments at 4; T-Mobile Comments at 3.

<sup>14</sup> CTIA/WIA Joint Comments at 7 (citing Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, Preamble, 47 C.F.R. Part 1, App. B); *see also* 47 C.F.R. § 1.1306 Note 1.

circumstance in which collocation on a Twilight Tower exhibits even a minimal potential to affect a historic property.”<sup>15</sup> For example, if an applicant seeking to collocate on a Twilight Tower is unable to satisfy seven specific conditions, it cannot rely on the exclusion and the collocation must undergo Section 106 review.<sup>16</sup> Finally, a Tribe may request consultation with the Commission “any time it finds that a Twilight Tower or any collocation on a Twilight Tower may affect a historic property of religious or cultural significance to the Tribe.”<sup>17</sup> For all these reasons, T-Mobile agrees that the draft Program Comment “strikes an appropriate balance”<sup>18</sup> between facilitating collocations on these existing towers and protecting historic properties.

## **II. COMMENTERS DEMONSTRATE THAT A PROGRAM COMMENT IS AN APPROPRIATE VEHICLE TO ENABLE COLLOCATIONS ON TWILIGHT TOWERS.**

T-Mobile agrees that a Program Comment is an appropriate vehicle to use in this case, where the Commission correctly found,<sup>19</sup> and the record confirms,<sup>20</sup> that the installation of a discrete class of collocations on Twilight Towers has minimal potential to affect historic properties. As CTIA and WIA explained, “[t]he ACHP rules permit agencies to pursue ‘alternatives’ to the Section 106 process, including program comments, ... where an activity has

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<sup>15</sup> CTIA/WIA Joint Comments at 7.

<sup>16</sup> See *Draft Program Comment*, 32 FCC Rcd at 10728-29. These conditions include: (i) no substantial increase in height; (ii) no substantial increase in width; (iii) no installation of more than four equipment cabinets or one equipment shelter; (iv) no excavation outside the tower site; (v) no prior FCC adverse effect finding for the tower; (vi) no pending FCC environmental review proceeding involving the tower; and (vii) no complaint alleging the collocation will have an adverse effect. See *id.*

<sup>17</sup> CTIA/WIA Joint Comments at 7-8.

<sup>18</sup> Verizon Comments at 3.

<sup>19</sup> *Public Notice*, 32 FCC Rcd at 10717 (citing 36 C.F.R. § 800.14(e)).

<sup>20</sup> See, e.g., CTIA/WIA Joint Comments at 3, 8; Mobile Future Comments at 6-7; Verizon Comments at 5-6.

minimal potential to adversely affect historic properties,” and “[t]he Commission has assembled ample evidence ...to justify the measures in the Draft Program Comment.”<sup>21</sup>

Commenters expressing concern about the proposed approach appear to misunderstand the targeted nature of the relief afforded by the draft Program Comment, which would allow only the installation of collocations on Twilight Towers if those collocations meet all seven specific conditions needed to invoke the exclusion.<sup>22</sup> In other words, the Program Comment governs *collocations* on Twilight Towers and not, as some commenters seem to believe,<sup>23</sup> the towers themselves. Importantly, it “does not propose any change to the ability of any entity to raise concerns that the tower itself affects a historic property,” and, as is the case today, “any person or [T]ribe can initiate a review of the underlying tower by filing a complaint with the Commission backed by substantial evidence that the tower affects a historic property.”<sup>24</sup> Thus, far from retroactively clearing the underlying towers,<sup>25</sup> the draft Program Comment merely opens a path to permit their use to support qualifying collocations.

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<sup>21</sup> CTIA/WIA Joint Comments at 3-4 (citing evidence); *see also* Mobile Future Comments at 6-7.

<sup>22</sup> *See supra* note 16.

<sup>23</sup> *See, e.g.*, Comments of the Georgia State Historic Preservation Office, WT Docket No. 17-79, at 1 (“GA SHPO Comments”); Comments of the National Association of Tribal Historic Preservation Officers, WT Docket No. 17-79, at 1 (filed Feb. 9, 2018) (“NATHPO Feb. 9 Comments”).

<sup>24</sup> Verizon Comments at 4.

<sup>25</sup> *See* NATHPO Feb. 9 Comments at 1; Comments of the National Association of Tribal Historic Preservation Officers, WT Docket No. 17-79, at 1-2 (Dec. 7, 2017) (“NATHPO Dec. 7 Comments”); Comments of the Chippewa Cree Tribe, WT Docket No. 17-79, at 2 (Dec. 8, 2017); *see also* Comments of the Confederated Tribes of the Umatilla Indian Reservation, WT Docket No. 17-79, at 1 (Dec. 13, 2017); GA SHPO Comments at 1; Comments of the National Trust for Historic Preservation, WT Docket No. 17-79, at 2 (Dec. 7, 2017); Comments of the Nez Perce Tribe Tribal Executive Committee, WT Docket No. 17-79, at 2-3 (Feb. 7, 2018); Comments of the National Conference of State Historic Preservation Officers, WT Docket No. 17-79, at 2 (Feb. 9, 2018).

Comments suggesting that an “inventory” of Twilight Towers is necessary prior to adoption of the Program Comment are incorrect.<sup>26</sup> As noted above, the Program Comment would not clear the underlying Twilight Towers; it would only permit collocation on those structures. In addition, because the purpose of a Program Comment is to comply with Section 106 in a single action for a class of undertakings in lieu of case-by-case review,<sup>27</sup> there is no need for an inventory and case-by-case review. In fact, such an inventory would be “time consuming and costly to create,” as one SHPO recognizes,<sup>28</sup> and it would obviate the very benefits a Program Comment is intended to provide. Moreover, “continuing to require tower-by-tower review before permitting collocation on these towers would not only be inefficient and costly, but also would continue to deny consumers the benefits of next-generation wireless services.”<sup>29</sup> Finally, the draft Program Comment is modeled after the existing exclusion in the Collocation Agreement (which allows for collocations on towers built on or before March 16, 2001 to occur without Section 106 review if certain conditions are met<sup>30</sup>); in that case, the Commission did not require a tower inventory, and there is no basis to do so here.

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<sup>26</sup> See, e.g., Comments of the Arkansas Historic Preservation Program Office, WT Docket No. 17-79, at 1 (Feb. 7, 2018) (“AR SHPO Comments”); Comments of the Cheyenne River Sioux Tribe, WT Docket No. 17-79, at 5 (Feb. 6, 2018); Comments of the Choctaw Nation of Oklahoma Comments, WT Docket No. 17-79, at 1-2 (Feb. 8, 2018); Comments of the Muscogee (Creek) Nation, WT Docket No. 17-79, at 1 (Feb. 9, 2017); NATHPO Dec. 7 Comments at 6; Comments of the Omaha Tribe of Nebraska, WT Docket No. 17-79, at 2-3 (Jan. 26, 2018); Comments of the Skull Valley Band of Goshute Indians, WT Docket No. 17-79, at 3 (Jan. 3, 2018).

<sup>27</sup> See Advisory Council on Historic Preservation, ACHP Guidance on Program Comments as a Program Alternative, <http://www.achp.gov/altguidance/> (last visited Feb. 22, 2018).

<sup>28</sup> E.g., AR SHPO Comments at 1

<sup>29</sup> Mobile Future Comments at 6.

<sup>30</sup> See Verizon Comments at 5 (noting that the draft Program Comment “mirror[s] the conditions placed on collocations on towers built before March 2001”); NTCA Comments at 3 (supporting the proposal to “to align the Rules with the Collocation NPA”); see also *Public Notice*, 32 FCC Rcd at 10728 (“We intend the exclusion here to mirror the exclusion in the Collocation NPA that applies to collocations on towers for which construction commenced on or before March 16, 2001.”).

## **CONCLUSION**

For all these reasons, T-Mobile reiterates its strong support for the draft Program Comment and urges the Commission to work with the ACHP to promptly finalize and adopt the Program Comment. Doing so will enable use of Twilight Towers for collocations that will benefit consumers and rural communities while meeting historic preservation goals.

Respectfully submitted,

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