

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of State and Local)	WT Docket No. 19-250
Governments' Obligation to Approve Certain)	RM-11849
Wireless Facility Modification Requests Under)	
Section 6409(a) of the Spectrum Act of 2012)	
)	
Accelerating Wireline Broadband Deployment)	WC Docket No. 17-84
by Removing Barriers to Infrastructure)	
Investment)	

**COMMENTS OF THE
WIRELESS INFRASTRUCTURE ASSOCIATION**

Jonathan Adelstein
President and CEO

Matt Mandel
Vice President of Government and Public Affairs

John A. Howes, Jr.
Government Affairs Counsel

WIA – The Wireless Infrastructure Association
2111 Wilson Blvd., Suite 210
Arlington, VA 22201
(703) 739-0300

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COMMENTS OF THE WIRELESS INFRASTRUCTURE ASSOCIATION

The Wireless Infrastructure Association (“WIA”) hereby responds to the Commission’s Public Notice¹ seeking comment on a Petition for Rulemaking (“PFR”) filed by WIA,² a Petition for Declaratory Ruling (“PDR”) filed by WIA,³ and a Petition for Declaratory Ruling filed by CTIA.⁴ Specifically, WIA urges the Commission to commence the requested rulemaking and to issue the declaratory rulings requested by WIA and CTIA. Clarifying and harmonizing the rules, as requested in the petitions, will build on the Commission’s commitment to remove barriers that hinder infrastructure deployment, to stimulate the growth of next generation wireless services to consumers, and to promote U.S. leadership in the race to 5G.

¹ See *Wireless Telecommunications Bureau and Wireline Competition Bureau Seek Comment on WIA Petition for Rulemaking, WIA Petition for Declaratory Ruling, and CTIA Petition for Declaratory Ruling*, Public Notice, WT Docket No. 19-250, DA 19-913 (rel. Sept. 13, 2019).

² WIA Petition for Rulemaking (filed Aug. 27, 2019) (“WIA PFR”).

³ WIA Petition for Declaratory Ruling (filed Aug. 27, 2019) (“WIA PDR”).

⁴ CTIA Petition for Declaratory Ruling (filed Sept. 6, 2019) (“CTIA Petition”).

INTRODUCTION AND SUMMARY

WIA appreciates the Commission's recent efforts to streamline regulations and to remove barriers to wireless infrastructure deployment.⁵ This Commission has made great strides, and those efforts continue. As Commissioner Carr noted in a speech earlier this year: "We will look to fully and faithfully implement the decisions Congress has made to streamline the deployment of next-generation technologies. We will push the government to be more pro-infrastructure by eliminating needless restrictions on siting wireless facilities."⁶

As the Commission has recognized, consumer demand for wireless broadband is skyrocketing and cannot be satisfied without additional infrastructure deployment.⁷ Many communities recognize that this demand for wireless broadband services cannot be met without additional infrastructure deployment and are working with industry to facilitate the deployment of such infrastructure. Indeed, twenty-eight states have successfully enacted legislation to modernize and streamline state rules for small cell deployment.⁸ Furthermore, many states have enacted collocation-by-right statutes that allow compound expansions on favorable terms.⁹

⁵ See generally *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Declaratory Ruling and Third Report and Order (rel. Sept. 27, 2018); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Third Report and Order (rel. Aug. 3, 2018); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Second Report and Order (rel. Mar. 30, 2018).

⁶ Brendan Carr, Comm'r, Fed. Comm'n's Comm'n, Keynote Address at the NATE UNITE Conference and Trade Show (Feb. 4, 2019), <https://medium.com/@BrendanCarrFCC/5g-jobs-in-the-year-of-5g-3c4ce0b14ace>.

⁷ See *Accelerating Wireless Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, WT Docket No. 13-238, 29 FCC Rcd 12865, 12866 (rel. Oct. 21, 2014) ("2014 Order").

⁸ 28 States Passed Small Cell Legislation for 5G Deployment, WIA, <https://wia.org/smallcelllegislation/> (last visited Oct. 28, 2019).

⁹ FLA. STAT. § 365.172(13)(d) (2019) ("A collocation proposal under this subparagraph that increases the ground space area, otherwise known as the compound, approved in the original site plan for equipment enclosures and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the local government's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing review. This sub-subparagraph shall not preclude a public hearing for any appeal of the decision on the collocation application."); IND. CODE § 8-1-32.3-11 (2016) (allowing compound expansions up to 2500sf); MICH. COMP. LAWS § 125.3514(1)(c) (2019) (allowing compound expansions up to 2500sf); MO. REV.

However, some communities continue to thwart or delay broadband deployment by (i) establishing onerous processes that must be navigated before wireless infrastructure can be deployed and/or (ii) converting the permitting process for wireless infrastructure into a substantial revenue-generating vehicle rather than a land use management tool. It is against this background that WIA and CTIA filed petitions seeking the Commission's intervention.

As Commissioner O'Rielly recently noted in remarks at Mobile World Congress Americas:

Both [WIA and CTIA] have requested various clarifications of 6409(a), because some localities are intentionally ignoring the law's intent by misinterpreting the Commission's rules. The requests in these petitions provide a great starting point for a notice on ways to facilitate the construction and modification of macro towers, along with providing additional relief for small cells.¹⁰

WIA's petitions represent key priorities for the wireless infrastructure industry as WIA members seek to support their deployments and densify networks across the United States to meet the ever-increasing demand for wireless broadband. Indeed, these petitions derive from much consideration among industry members about areas where they are encountering unnecessary delays and fees. These petitions have been developed from WIA's advocacy that has occurred for well over a year on ways that the Commission can update its rules and provide further clarity to not only industry members, but also State and local governments.¹¹

STAT. § 67.5092(13)(d) (2014) (including compound expansions up to 2500 sf); N.J. STAT. ANN. 40:55D-46.2(1)(a)(2) (West 2012) (allowing compound expansions up to 2500sf); N.C. GEN. STAT. § 160A-400.51(7b)(c) (2017) (referring to cities and towns and allowing compound expansions up to 2,500 sf); N.C. GEN. STAT. § 153A-349.51(7a)(c) (2013) referring to counties and allowing compound expansions up to 2,500 sf); WIS. STAT. § 66.0404(1)(s)(4) (2019) (allowing compound expansion up to 2500sf).

¹⁰ Michael O'Rielly, Comm'r, Fed. Commc'ns Comm'n, Remarks Before the Mobile World Congress Americas 2019: Everything Policy Track (Oct. 23, 2019), <https://docs.fcc.gov/public/attachments/DOC-360382A1.pdf>.

¹¹ See generally Notice of *Ex Parte* Presentation from John A. Howes, Jr., WIA, WT Docket No. 17-200, GN Docket No. 17-142, WT Docket No. 17-79, WC Docket No. 17-84 (Aug. 11, 2019); Notice of *Ex Parte* Presentation from John A. Howes, Jr., WIA, WT Docket No. 17-200, GN Docket No. 17-142, WT Docket No. 17-79, WC Docket No. 17-84 (Aug. 7, 2019); Notice of *Ex Parte* Presentation from Matthew H. Mandel, WIA, WT Docket No. 17-79, WC Docket No. 17-84 (June 17, 2019); Notice of *Ex Parte* Communication from Matthew H. Mandel, WIA, WT Docket No. 17-79, WC Docket No. 17-84 (May 20, 2019); Notice of *Ex Parte* Communication from D. Zachary Champ, WIA, WT Docket No. 17-79, WC Docket No. 17-84, ET Docket No. 13-84, ET Docket No. 03-137 (Mar. 14, 2019); Notice of *Ex Parte* Communication from D. Zachary Champ, WIA, WT Docket No. 17-79, WC Docket

WIA applauds the Commission for quickly seeking comment on the Petitions that request clarifications and rule changes designed to promote infrastructure deployment. This prompt action is consistent with the Commission's continuing commitment to create a regulatory environment that promotes wireless infrastructure deployment. The discrete steps proposed in the petitions will build on the Commission's successful and continuing efforts to remove barriers to infrastructure deployment, accelerate the expansion of next generation wireless services to consumers, and ensure continued U.S. leadership in all things wireless.

No. 17-84 (Nov. 16, 2018); Notice of *Ex Parte* Communication from Farhan Chughtai, WIA, WT Docket No. 17-79, WC Docket No. 17-84 (Oct. 22, 2018); Notice of *Ex Parte* Communication from D. Zachary Champ, WIA, WT Docket No. 17-79, WC Docket No. 17-84 (Oct. 5, 2018); Notice of *Ex Parte* Communication from Sade Dada, WIA, WT Docket No. 17-79, WC Docket No. 17-84 (Sept. 19, 2018); Notice of *Ex Parte* Communication from Sade Dada, WIA, WT Docket No. 17-79, WC Docket No. 17-84 (Sept. 10, 2018); Notice of *Ex Parte* Communication from Sade Dada, WIA, WT Docket No. 17-79, WC Docket No. 17-84 (Aug. 30, 2018).

I. THE COMMISSION SHOULD COMMENCE A RULEMAKING TO FURTHER STREAMLINE INFRASTRUCTURE DEPLOYMENT AND REQUIRE THAT FEES FOR PROCESSING EFRs MUST BE COST-BASED.

WIA urges the Commission to update its rules to: (i) ensure that collocations requiring limited compound expansions – excavation within thirty feet of a tower site – qualify for relief under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”),¹² and the FCC’s implementing regulations; and (ii) require that fees associated with Eligible Facilities Requests (“EFRs”) for the provision of telecommunications services must be cost-based. As noted in WIA’s Petition for Rulemaking, the Commission has broad discretion to streamline or modify its rules “if they no longer serve the public interest in their current form.”¹³

A. THE COMMISSION SHOULD AMEND ITS DEFINITION OF A “COMPOUND EXPANSION” TO TRACK THE NPA.

1. THE COMMISSION SHOULD HARMONIZE ITS RULES THAT ALLOW FOR COMPOUND EXPANSIONS FOR REPLACEMENT TOWERS WITH THE RULES FOR COLLOCATIONS.

The current rules contain a discrepancy regarding the treatment of collocations that require expansions of the compound.¹⁴ Collocations that involve minor (less than thirty feet) compound expansions are treated as substantial increases, but new structures that involve ground excavation up to thirty feet outside of the site boundary are not.¹⁵ To eliminate this discrepancy and to facilitate broadband deployment, the Commission should amend its rules to make clear

¹² Section 6409(a) codified at 47 U.S.C. 1455(a).

¹³ WIA PFR at 3.

¹⁴ *Id.* at 10-12. Compare 47 C.F.R. § 1.6100(b)(7)(iv) (2019) (stating that “[a] modification substantially changes the physical dimensions of an eligible support structure” if “[i]t entails any excavation or deployment outside the current site”), with Nationwide Programmatic Agreement Regarding the Section 106 NHPA Review Process, 70 Fed. Reg. 580, 582 (2004), codified at 47 C.F.R. Part 1, App. C.III.B (2005) (“NPA”) (“Construction of a replacement for an existing communications tower and any associated excavation that does not substantially increase the size of the existing tower under elements 1-3 of the definition as defined in the Collocation Agreement (see Attachment 1 to this Agreement, Stipulation 1.c.1-3) and that does not expand the boundaries of the leased or owned property surrounding the tower by more than 30 feet in any direction or involve excavation outside these expanded boundaries or outside any existing access or utility easement related to the site. For towers constructed after March 16, 2001, this exclusion applies only if the tower has completed the Section 106 review process and any associated environmental reviews required by the Commission’s rules.”).

¹⁵ See NPA, *supra* note 14.

that a substantial change under Section 6409(a) occurs with respect to compound expansions only if excavation would be undertaken more than thirty feet from a tower site boundary. This change is needed to effectuate Congressional intent to facilitate collocations, as reflected in Section 6409(a), but also throughout the Spectrum Act.¹⁶

2. ALLOWING LIMITED COMPOUND EXPANSIONS WILL PROMOTE 5G AND PUBLIC SAFETY.

Action by the Commission on these petitions is warranted given industry changes since adoption of the Collocation Agreement and Section 1.6100 of the Commission's rules.¹⁷ The deployment of networks and the underlying network architecture have advanced remarkably since the Collocation Agreement was reached in 2001. The Commission needs to harmonize these rules as stated before, but it also needs to look ahead to enabling the facilities and technologies that will support next generation networks – even beyond the 5G deployments that are already underway. Providers are now enabling connectivity on spectrum bands that have recently become available for commercial, wireless use, like 600 MHz, and the Commission is considering a wide range of low, mid, and high bands that could be made available in the coming years. These will require new antennas, so updating the Commission's rules on collocations is especially appropriate.

Furthermore, to meet the ever-increasing demand for data, wireless providers must further densify their networks. In order to achieve the goals of and requirements for 5G deployments, providers are also deploying Multi-access Edge Computing (“MEC”) equipment at the tower site to better facilitate data processing. In addition, providers are increasingly deploying backup equipment and generators to ensure that their networks are resilient and will

¹⁶ See *2014 Order* at ¶ 144 (“Section 6003 requires the Commission to ‘implement and enforce this title as if this title is a part of the Communications Act of 1934,’ bringing its interpretation directly within several provisions granting the Commission broad authority to promulgate rules implementing that Act.”) (internal citations omitted).

¹⁷ WIA PFR at 5-7.

remain on line when disasters strike. First responders and public safety networks, including FirstNet, are expanding their capabilities, and they require improved coverage and capacity. These networks rely heavily on collocating on existing sites to achieve these objectives because collocating on existing wireless infrastructure will accelerate deployment, reduce capital costs, and create a broader network footprint for public safety networks, including FirstNet.

However, given the existing inconsistencies in the Commission's rules between replacement towers and regular collocations, the network upgrades needed for 5G and public safety cannot occur in compounds that are already at or near capacity. As stated above, next generation, 5G networks will increasingly employ new equipment, like MECs. In addition, many existing deployments and public safety networks are installing backup generators and other equipment on the ground at the tower site to provide greater resiliency. However, many existing sites no longer have enough room within their existing, physical boundaries, so the only option is to expand the compound to accommodate the additional equipment. Therefore, swift action by the Commission to correct the inconsistency in the rules and allow for minor expansions to the compound for additional equipment is especially necessary given the growing frequency of super storms and other natural disasters like wildfires and tornadoes.

B. THE COMMISSION SHOULD AMEND ITS RULES TO REQUIRE THAT FEES FOR PROCESSING EFRs MUST BE COST-BASED.

WIA continues to urge the Commission to amend its rules to require expressly that fees for processing EFRs must represent a reasonable approximation of actual and direct costs incurred by the government and that the failure to pay disputed fees is not a valid basis for denying or refusing to process an EFR.¹⁸ Such action is needed to curb attempts by some localities to turn the Section 6409(a) review process into a revenue-generating vehicle.

¹⁸ *Id.* at 12-14.

Section 6409(a) directs localities to approve EFRs. Therefore, any local review should be ministerial in nature and designed solely to determine whether a proposal qualifies as an EFR. Localities should be entitled to recoup any costs incurred as part of the ministerial review envisioned by Section 6409(a), but localities should not be allowed to convert this review process into a revenue generating vehicle process whereby they can impose onerous fees as a condition for approving EFRs. Such a regime would be inconsistent with the congressional objective underlying Section 6409(a) – to promote expedited wireless facility collocations.

Despite the Commission’s determination that fees that are not cost-based materially inhibit the ability of an entity to compete,¹⁹ some jurisdictions continue to use fees in a manner that inhibits deployment.²⁰ In addition to the examples set forth in WIA’s PFR,²¹ the following jurisdictions impose fees that are not cost-based:

- Town of Goffstown, New York charges a fee of \$200 and \$35 per foot of height for collocation.²²
- Town of Colonie, New York requires payment of a \$3,500 permit application fee for any modifications associated with a telecommunications facility, including EFR applications.
- Town of East Greenbush, New York requires payment of a \$2,500 permit application fee for any modifications associated with a telecommunications facility, including EFR applications.
- Saunders County, Nebraska requires payment of \$1,000 nonrefundable application fee and a \$8,500 initial escrow to review EFRs.
- City of Columbus, Nebraska requires payment of a nonrefundable application fee, a \$8,500 initial escrow, and reimbursement for up to \$17,000 in consultant fees as part of its EFR review process.

¹⁹ See Declaratory Ruling and Third Report and Order, *supra* note 5.

²⁰ WIA PFR at 13.

²¹ *Id.*

²² There is no rational nexus between the height of a collocation and the amount of time/work it takes to review the application. No other types of projects are subject to a similar height-based fee.

This rule change sought by WIA is necessary to deter the imposition of onerous fees, such as those set forth above, and allow entities to challenge such fees in good faith without fear of retribution.

II. THE COMMISSION SHOULD ISSUE THE REQUESTED DECLARATORY RULINGS.

The Commission should issue the declaratory rulings requested by WIA and CTIA.²³ As the Petitions demonstrate, many aspects of the existing rules have become unclear or been misinterpreted in the subsequent years. Additional guidance is necessary from the Commission to eliminate disputes between entities seeking to deploy wireless infrastructure and to provide further guidance to localities so they can help promote access to wireless services in their communities.

Although the Commission has taken various actions implementing Section 6409, certain jurisdictions are unfortunately still working to circumvent the protections afforded by law. As demonstrated in WIA's PDR, the Commission should address these practices by clarifying that:

- Section 6409(a) and the Commission's implementing rules apply to all state and local authorizations;
- The Section 6409(a) shot clock begins to run once an applicant in good faith attempts to seek the necessary local government approvals;
- The substantial change criteria in Section 1.6100(b)(7) of the Commission's rules should be narrowly interpreted;
- "Conditional" approvals by localities violate Section 6409(a);²⁴ and

²³ See generally CTIA Petition for Declaratory Ruling (filed Sept. 6, 2019) ("CTIA Petition").

²⁴ Many jurisdictions utilize a special use/conditional use approval process for wireless facilities. This process, which usually takes six to eight weeks, often includes standard collocations. See Saunders County Zoning Regulations § 9.08.05(A) (requiring a conditional use permit for any "new, co-location or modification" of a wireless telecommunications facility); Douglas County Supplemental Use Regulations § 5.09(E)(1) (stating the overall policy to require a special use permit for any "new, co-location or modification" of a wireless telecommunications facility); Southern Pines Unified Development Ordinance 7-10-18-1 § 5.23 (requiring a full conditional use permit process for all collocations).

- Localities may not establish processes or impose conditions that effectively defeat or reduce the protections afforded under Section 6409(a).

Subsequent to WIA filing its PDR, CTIA filed a PDR asking the Commission (i) to clarify the terms “concealment element,” “equipment cabinet,” and “base station,” (ii) clarify that, when an application is “deemed granted” under Section 6409, applicants may lawfully construct even if the siting authority has not issued construction permits, (iii) to clarify that the definition of the term “pole” in section 224 includes light poles, (iv) to declare that utilities may not impose blanket prohibitions on access to certain parts of the pole, and (v) to clarify that utilities may not seek pole attachment terms and conditions that are inconsistent with the Commission’s rules.²⁵ WIA concurs that each of these declarations and clarifications is warranted.

A. THE COMMISSION SHOULD ISSUE THE CLARIFICATIONS SOUGHT BY CTIA REGARDING THE SCOPE OF SECTION 6409(a).

CTIA urges the Commission to issue various clarifications regarding which deployments qualify for streamlined processing and the remedies available under 6409(a).²⁶ WIA supports these clarifications, which generally echo those contained in its PDR.

1. THE COMMISSION SHOULD CLARIFY THE TERMS “CONCEALMENT ELEMENT,” “EQUIPMENT CABINET,” AND “BASE STATION”.

WIA demonstrated in its PDR that some localities are attempting to circumvent Section 6409(a) by broadly interpreting what constitutes a “substantial change” under the Commission’s rules.²⁷ CTIA echoes these concerns and urges the Commission to clarify the terms “concealment element,” “equipment cabinet,” and “base station.”²⁸

²⁵ See generally CTIA Petition.

²⁶ *Id.* at 6-20.

²⁷ WIA PDR at 10-21.

²⁸ CTIA Petition at 9-16.

Concealment elements. Like WIA,²⁹ CTIA urges the Commission to clarify what constitutes a “concealment element” because various localities are “broadly interpreting that term to deny streamlined treatment of modifications” under Section 6409(a).³⁰ WIA concurs with CTIA that the “overbroad interpretations of the term ‘concealment elements’ [by localities] undermine Congress’ intent to streamline application approvals under Section 6409(a) as well as Section 1.6100(b)(7)(v) of the Commission’s rules, and frustrate the Commission’s policy to promote deployment on existing structures.”

Equipment Cabinets. WIA and CTIA urge the Commission to clarify that equipment attached to a structure does not constitute “equipment cabinets.”³¹ WIA thus supports CTIA’s request that the Commission clarify that the term “equipment cabinet” means cabinets that are placed on the ground or elsewhere on the premises, and does not include equipment attached to the structure itself.

Base Stations. CTIA demonstrates that some localities are creatively interpreting the term “base station” to mean “only that portion of the building hosting previously approved equipment, and only the other equipment that was previously installed.”³² These localities then use the smaller building size as the basis for determining whether a proposal constitutes a substantial modification based on the size limitation for EFRs (*e.g.*, ten percent or less increase in height) set forth in the Commission’s rules.³³ The Commission should address the misapplication of its rules by clarifying that, for the purpose of determining whether a proposed modification on a non-tower structure constitutes a substantial change under Section 6409(a), the

²⁹ WIA PDR at 10-14.

³⁰ CTIA Petition at 9-13.

³¹ *See* WIA PDR at 14-15; CTIA Petition at 13-15.

³² CTIA Petition at 15.

³³ *Id.* at 15-16.

dimensions of the entire non-tower structure must be used in making the calculations under the Commission's implementing rules.

2. THE COMMISSION SHOULD CLARIFY THAT APPLICANTS MAY LAWFULLY CONSTRUCT IN THE ABSENCE OF CONSTRUCTION PERMITS WHEN AN APPLICATION IS "DEEMED GRANTED" UNDER SECTION 6409.

In its PDR, WIA urged the Commission to clarify that, when an EFR is deemed granted, "a wireless provider is legally authorized to move forward with construction and deployment even if the locality refuses to issue building and other permits technically required under local regulations."³⁴ CTIA makes a similar request, noting that, "[g]iven that the source of the approval is federal law, there is no basis for localities to refuse additional permits once an application is deemed granted, because this federal remedy authorizes the applicant to modify the facility without local authorization."³⁵ Both WIA and CTIA demonstrate that the clarification is necessary because some localities are defeating the "deemed granted" remedy under Section 6409(a) by refusing to issue building permits. Absent such a clarification, expensive and time-consuming litigation may be required, which is inconsistent with the objective of Section 6409(a).

B. THE COMMISSION SHOULD ACT TO REMOVE UNCERTAINTY REGARDING UTILITY POLE ACCESS UNDER SECTION 224.

1. THE COMMISSION SHOULD CLARIFY THAT THE DEFINITION OF THE TERM "POLE" IN SECTION 224 INCLUDES LIGHT POLES.

CTIA urges the Commission to declare that the term "pole" includes light poles, and that utilities thus must afford nondiscriminatory access to light poles at rates, terms, and conditions consistent with the requirements of Section 224 and the Commission's implementing pole

³⁴ WIA PDR at 22.

³⁵ CTIA Petition at 20.

attachment rules.³⁶ WIA supports this clarification and agrees that, absent such clarification, utilities will “continue to deny access to light poles and impede deployment.”³⁷

2. THE COMMISSION SHOULD DECLARE THAT UTILITIES MAY NOT IMPOSE BLANKET PROHIBITIONS ON ACCESS TO CERTAIN PARTS OF THE POLE.

WIA agrees with CTIA that the Commission should reaffirm that utilities may not impose blanket prohibitions on access to any portions of their poles.³⁸ Utilities must be required to demonstrate “clearly and precisely why a specific attachment would raise safety and reliability concerns before denying access” to a pole.³⁹ As the Commission has previously stated, “before a utility may deny access to a pole, the utility ‘must explain in writing its precise concerns—and how they relate to lack of capacity, safety, reliability, or engineering purposes—in a way that is specific with regard to both the particular attachment(s) and the particular pole(s) at issue.’”⁴⁰

3. THE COMMISSION SHOULD CLARIFY THAT UTILITIES MAY NOT SEEK POLE ATTACHMENT TERMS AND CONDITIONS THAT ARE INCONSISTENT WITH THE COMMISSION’S RULES.

CTIA seeks a Commission declaration that utilities cannot ask providers to accept terms and conditions that are inconsistent with the Commission’s rules.⁴¹ WIA supports this request because, absent the requested declaration, utilities could use their bargaining power to undercut the protections set forth in the Commission’s rules.

CONCLUSION

5G technologies will generate \$3.5 trillion in economic output and support 22 million jobs worldwide by 2035, according to a 2017 study.⁴² However, if infrastructure policies do not

³⁶ *Id.* at 21-25.

³⁷ *Id.* at 22.

³⁸ *Id.* at 25-27.

³⁹ *Id.* at 25.

⁴⁰ *Implementation of Section 224 of the Act*, 26 FCC Rcd 5240, 5275 (2011).

⁴¹ CTIA Petition at 28-31.

⁴² KAREN CAMPBELL, ET AL., IHS ECON. & IHS TECH., THE 5G ECONOMY: HOW 5G TECHNOLOGY WILL CONTRIBUTE TO THE GLOBAL ECONOMY (2017), <https://cdn.ihs.com/www/pdf/IHS-Technology-5G-Economic-Impact-Study.pdf>.

stay up-to-date, the United States risks falling behind in the global race to 5G and not experiencing the benefits and incredible economic value that will come from the adoption of 5G technologies. Congress enacted Section 6409 to speed deployment of next generation, wireless infrastructure; however, since the Commission promulgated rules implementing that law, misinterpretations of the rules, as well as efforts to skirt them, have hindered deployments and the ability of citizens to benefit from next generation networks. By taking these steps outlined in WIA's and CTIA's petitions, the Commission can ensure that infrastructure providers and carriers can build 5G networks and ensure resiliency, which is critical for public safety. Acting favorably on these petitions will build upon the Commission's successful and continuing efforts to remove barriers to infrastructure deployment, accelerate the expansion of next generation wireless services to consumers, and ensure continued U.S. leadership in all things wireless.

Respectfully submitted,

/s/ John A. Howes, Jr.

John A. Howes, Jr.
Government Affairs Counsel

Jonathan Adelstein
President and CEO

Matt Mandel
Vice President of Government and Public Affairs

WIA – The Wireless Infrastructure Association
2111 Wilson Blvd., Suite 210
Arlington, VA 22201
(703) 739-0300

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