

On Friday, February 1, 2018, representatives from State Historic Preservation Offices (SHPOs) in 18 states along with the National Conference of State Historic Preservation Officers (NCSHPO) participated in a conference call to review and discuss the proposed Draft Twilight Towers Program Comment along with its accompanying Public Notice which seeks comment on the draft. FCC staff participating on the call included Suzanne Tetreault, Deputy Chief, Wireless Telecommunications Bureau (WTB); Garnet Hanly, Chief, Competition and Infrastructure Policy Division (CIPD), WTB; Jeffrey Steinberg, Deputy Chief, CIPD, WTB; Jill Springer, Federal Preservation Officer, WTB; and Daniel Margolis, Attorney Advisor, CIPD, WTB. A list of SHPO participants is attached.

During the call, FCC staff provided background on the origin of and need for the Program Comment, including estimates of the number of Twilight Towers that exist, why the Commission is encouraging the use of already constructed towers as opposed to construction of new towers, and the process by which the Commission anticipates working with the Advisory Council on Historic Preservation (ACHP), which is ultimately responsible for issuing any Program Comment. Staff reported that, according to industry, at least 4,298 Twilight Towers exist. Staff further explained that adoption of the Program Comment would encourage use of existing infrastructure, thereby mitigating the need to construct additional towers. Staff noted that the Commission undertook an open process to encourage comments on a draft before making recommendations to the ACHP and that, after consideration of the record, the FCC expects to present a formal final draft to ACHP for it to consider.

One participant asked for a summary of how Commission staff considered concerns expressed by the Tribal Historic Preservation Officers and SHPOs. Staff explained that the Commission considered whether Twilight Towers should be subject to a review process and determined, subject to further consideration in light of the record, that the balance of interests weighed in favor of a Program Comment that did not require such review. One participant asked if there is a process for knowing what towers were built during the Twilight period. Another participant asked if the Commission was envisioning a process under which a party would notify either the Commission or the SHPO that it proposed to collocate pursuant to the Program Comment and inquired how SHPOs would know where and when these collocations were occurring. Staff noted that under the proposed Program Comment, so long as the builder had confirmed the status of the tower, it could proceed with the collocation without any notification requirements.

One participant asked what would happen in circumstances where properties of historic significance may have been disturbed at the time of construction. It was further noted that disturbances cannot be corrected retrospectively. Staff noted that there is a presumption in the draft Program Comment that current collocations will have no effect on historic properties and that if there are circumstances where there are ongoing concerns re specific sites, they can be addressed with the Commission on a case-by-case basis. One party on the call noted that while the draft refers to a lack of clarity in the Commission's NHPA rules, the rules always contained a provision requiring that applicants comply with NHPA. A participant on the call noted that some applicants were notorious for skipping Section 106 review and asked what was to prevent someone from making false representations about particular constructions on a going-forward basis. Staff noted that the Commission retains its enforcement authority if an entity were to construct a new tower without having completed Section 106 review.

Another participant on the call opined that what makes the draft Program Comment unpalatable is that it absolves the wireless industry due to an asserted lack of clarity. From the SHPOs' perspective, the NHPA has been in place since 1966 and other actors were complying with its requirements. Further, this SHPO asserted, the draft Program Comment affords no opportunity for acknowledgement of adverse effects. The participant also advocated that any annual meeting with ACHP to determine efficacy should include representation from NCSHPO and the National Association of Tribal Historic Preservation Officers. Another participant noted that the draft states that SHPO records are often inadequate and implies that SHPOs haven't been doing their job at record-keeping. This person also voiced concern about putting in new support equipment enclosures at these towers, as there is a possibility that intact residual artifacts could be further disturbed.

Attachment

SHPO-FCC Call Registrants

<u>State</u>	<u>Name of Participant</u>	<u>Title</u>
Alabama	Lee Anne Wofford	Deputy SHPO
Alabama	Amanda McBride	Environmental Review Coordinator
Alabama	William Lowe	Senior Archaeologist
Alabama	Christopher Kinder	Architectural Historian
Alaska	Sylvia Elliott	Historian II, Review & Compliance
Arkansas	Timothy Dodson	Section 106 Review Manager and Archaeologist
Connecticut	Marena Wisniewski	State Register Coordinator
Florida	Alissa Slade Lotane	Deputy State Historic Preservation Officer
Florida	Robin Jackson	Historic Preservationist
Georgia	Jennifer Dixon	Program Manager
Idaho	Matt Halitsky	SHPO
Illinois	Rachel Leibowitz, Ph.D	Deputy SHPO
Indiana	Chad Slider	Assistant Director for Environmental Review
Minnesota	Sarah Beimers	Manager
Missouri	Amanda Burke	Historic Preservation Specialist
Montana	Jessica Bush	Review and Compliance Officer/Deputy SHPO
NCSHPO	Erik M. Hein	Executive Director
New Mexico	Michelle Ensey	Deputy SHPO
New Mexico	Andy Wakefield	State Archaeologist
Ohio	Diana Welling	
Ohio	Lisa Adkins	
Ohio	Joy Williams	
Pennsylvania	Emma Diehl	Historic Preservation Specialist
Wisconsin	Leslie E. Eisenberg, Ph.D.,	Archaeologist
Wyoming	Erica Duvic	Historic Preservation Specialist