



Allyson Brooks Ph.D., Director  
State Historic Preservation Officer

May 25, 2017

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
Washington DC

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
Washington DC

RE: WT Docket No. 17-79

Dear Commission Secretary and Chairman Pai:

We are responding to your request for public comments regarding Section 106 reviews being conducted under the National Historic Preservation Act of 1966 as amended. We appreciate this opportunity to offer substantive evidence-based data from our robust record keeping on the Federal Communications Commissions (FCC) projects that have been reviewed under the terms of the nationwide Programmatic Agreement

In reviewing your detailed questions there appears to be industry concern with regulatory review timeliness. To respond to your concerns we conducted an analysis of all FCC review response times during calendar year 2016. The agency found that 160 or 60% of reviews were completed the same day as they appeared on the FCC e106 Web site. Two hundred and thirty six, or 87%, were completed within one week. The average response time was 3.12 days and the longest review period was 15 days.

Therefore, based on a review of the data it does not appear that the State of Washington is creating any regulatory burden or delays for FCC licensed projects. In fact, from our perspective, the nationwide programmatic agreement, that enables the FCC to use an electronic notification process, is meeting or exceeding its original intent of streamlining and creating expedited review times.

Another issue raised by the FCC for public comment is whether reviews by local governments are duplicating reviews by the state historic preservation office. Reviews by a certified local government (CLG) are not equivalent to state reviews. In Washington State, most small to medium certified local governments do not consider impacts to archaeological or cultural sites and generally do not have information on historic and Native American cemeteries and/or burial areas. This type of data is held securely by our agency and tribal historic preservation offices. In contrast, local governments generally focus their perspective on impacts to local historic districts or structures; local land use and comprehensive planning; and some may have separate local regulatory authority that is distinctly different from state level reviews. More importantly, local reviews permit the citizens and the general public to have a voice in the federal FCC planning efforts.

The dual state and local review process of FCC licensed undertaking protects the applicant from inadvertent archaeological and burial discoveries, which can be extraordinarily expensive, and provides the applicant with public consensus and approval when examining appropriate locations for facilities. We contend that reviews by both the state and by the local government are necessary and critically important to any facility siting. In short,



Commission's Secretary  
The Honorable Ajit Pai  
Federal Communications Commission  
Re: WT Docket No. 17-79  
May 25, 2017  
Page 2

the two part process of state and local reviews actually benefit industry by ensuring concurrence.

We are also aware of the industry's dis-satisfaction with tribal involvement in the application review process. We think it is important to note that tribes have an essential and fundamental role in the Section 106 consultation process. Tribes have deep rooted and complex relationships to the cultural, archaeological, and natural resources that comprise their identity and sense of well-being. Particularly in western states such as Washington, tribal governments and the Native American population maintain a close connection to the land and concern for how it is used. All jurisdictions in Washington State have archaeological and cultural resources important to multiple tribal governments.

It is no accident that in Washington State the major cities are named Seattle, Spokane, Yakima, Wenatchee, and Walla Walla. Tribal concerns with cultural and archaeological resources eligible to the National Register are located in both urban and rural areas in Washington.

Another question raised by the FCC is whether "batching" large numbers of reviews would expedite or hinder the 106 process. The Department of Archaeology and Historic Preservation has a robust Geographic Information System (GIS). If industry could supply us with a GIS layer that located each potential site, we could expedite batched reviews.

We also have concerns with your proposal to exempt facilities located in right-of-ways from Section 106 reviews. In the western United States, many if not most, rights-of-ways are actually undeveloped and have the potential for containing archaeological and cultural material. In order to exempt a right-of-way we would need to be able to cross check these areas with known site locations and examine the risk potential for locating sites.

Finally, you requested ideas for areas of the Section 106 review where the FCC and industry contend there could be improvement. We agree that process improvement is always valuable. However, there is no need to amend the National Historic Preservation Act. The easiest and simplest approach would be to amend the existing nationwide programmatic agreement to include additional streamlining measures.

One important opportunity that we recommend is for greater industry assistance to SHPOs and Tribes to develop or enhance their computer capabilities. This assistance applied at a **nationwide** level would allow for the benefit of compatible databases that are consistent across state lines and provide users with remote and 24/7 access. We also recommend greater consistency in the quality of cultural resource consultants employed by industry. Our experience is that some consulting firms conduct their data collection and analysis remotely from other parts of the country and so lack the local knowledge necessary to identify potential impacts to cultural resources. This approach can lead to incomplete assessments that require additional information and so delay our reviews.

Thank you for allowing Washington State to provide comments with regards to concerns highlighted by the FCC. We look forward to FCC further communication with its other substantive stakeholders—States, Tribes, and Local Governments.

Sincerely,

  
Allyson Brooks, Ph.D  
Director, State Historic Preservation Officer

