



Illinois Department of Transportation

Office of the Secretary
2300 South Dirksen Parkway / Springfield, Illinois / 62764
Telephone 217/782-5597

June 8, 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW, Room TW-A325
Washington, DC 20554

Docket No.: WT Docket No. 17-79

Dear Secretary Dortch:

The Illinois Department of Transportation (IDOT) submits the following comments in response to the Federal Communications Commission's (Commission) Notice of Proposed Rulemaking and Notice of Inquiry, in WT Docket No. 17-79; FCC 17-38, entitled; "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment" and published in the May 10, 2017, Federal Register. IDOT appreciates the opportunity to provide comments on proposals to reduce the regulatory impediments to wireless network infrastructure investment and deployment.

IDOT believes its process for review and issuance of permits is very timely, citing recent work with the fiber optic industry under the federal ARRA program. The burden of timely issuance of permits is shared by both the State and the industry. It is important that the utility fulfill its duties and meet their obligations. The industry is guided by the provisions set out in the "Accommodations of Utilities on Right-of-Way of the Illinois State Highway System" manual. Among the standard provisions that define expectations for the specific industry are:

- Clear and concise template drawings that give general information at a glance;
- A set procedure already developed in previous discussions;
- Pre-meetings at the lowest level of permitting to set parameters, make contacts and discuss concerns associated with the local environment, i.e. terrain, culture, weather, property ownership and any other location specific criteria. Not all state or Districts or cities are alike. Being aware of the traditional operation significantly helped reduce local conflict.;
- Providing a good knowledgeable contact;
- Breaking the project up into manageable pieces before submitting; IDOT used county boundaries then narrowed it to roadway sections;
- Submitting complete, accurate, readable plans and permits;

- Doing the work that is depicted on the permit in a timely manner, perhaps mirroring the Shot Clock for issuance. This avoids an overload of permits that will not be built any time soon but can trigger a Shot Clock deadline;
- Diligent and timely clean up. This reduces the number of open permits to manage;
- And, accurate and timely records and as-built drawings to allow the close out of permits.

IDOT asks that these expectations be taken into account, rather than placing the entire “time” burden on the governmental body.

Regarding the “**Deemed Granted Shot Clock**”, most of IDOTs permitting expectations for issuance fall within the current Shot Clock deadlines. For most instances, this would just be an adjustment to policy and prioritizing work load for whomever receives and processes Right of Way (ROW) permits. However, as IDOT learned in working with the fiber optic industry, those time lines are discarded when there is an onslaught of permits caused by an influx of funds and rules that allow installations with little oversight. The concept behind this NPRM is to clarify that if a government authority doesn’t respond in a timely manner, the permit is automatically granted. The NPRM is attempting to shift the burden of court appeal to the [local] government as opposed to the permit applicant.

The Commission should take into consideration that a company could submit all of their locations at once with no intention to perform the installations quickly. Such an action would swamp the permit offices to get multiple permits issued without full review. For example, when IDOT was asked to review fiber optic installation along the entire FAI (Interstate) 70 corridor which crosses the state, the expectation for permit review was 30 days, which was completely impossible. The proposed installation spanned two districts, multiple waterways, and many environmental and land acquisition challenges. Currently, agencies have the ability to discourage this practice. If IDOT issues the permit within the 60 day approval time, the company gets 60 days (or 150) to complete the installation or the permit is void. The utility could then space their work as well and in turn make the issuance and inspection time easier to handle with fewer “deemed granted permits”.

IDOT does not see any real discernable difference in the three options for permit timing where issuance of the permit is concerned. Each gives the utility excessive privilege. It would be beneficial to concentrate on the cooperative work of getting well planned sitings. These facilities vary greatly in size, type, location and risk. For instance, it is unreasonable to assume the same time frame to issue a permit for a collocated facility and a full macro system.

If the **irrebuttable option** is used, what is the point of a permit at all? There is no incentive to submit complete, accurate and readable applications if the utility can get an irrebuttable presumption by submitting complicated, large and

incomplete documents which would take much longer to review and issue and causing a failure to issue.

Again, with the locations of State and local Authority, the utility company has no incentive to meet their obligation. But in addition to having the ability to manipulate the timing of the permit, this option takes away valuable options for future actions. For instance, if the facility is unused, neglected or simply not maintained to a point that is unsightly, unusable or unsafe, who would then take action to remedy, if the authority has been stripped from the most likely agency? Many cable companies have abandoned lines within state rights of way. The facilities are sold and/or traded quite often leaving a long trail to follow before removing dangerous poles and cables. The wireless industry is relatively new and it is unpredictable - what will be replacing it in the future?

There are locations around the state where it is difficult to determine who holds clear title to the road and adjacent property. Federal language would need to take this into account; whether it's a pause button on the "shot clock" or a clock reset during a question or dispute of the permit by government office.

Because the wireless industry is relatively young and the probability for change could be swift, the **Preemption rule** is probably the best plan in that it is the only one that allows some ability to adjust for future changes. The commission would have some knowledge of the background decisions and a vested interest in proper protocol. Adjustment could be made in timing of permits if there is indication that it needs adjusting or if the set procedure simply fails.

Regarding "**reasonable time**", as mentioned earlier, it is not the same for the variety of installations anticipated to fall under this rule. There needs to be a cooperative effort to allow for ample time to process permits. Rushing is not the best way to get the best result. While the initial time frame will have a fairly long learning curve, the times will improve or at least become predictable.

Another area of concern is the amount of times "**provide information in writing and cite the source**" is mentioned. While correspondence certainly helps if legal issues arise, it certainly slows the process. E-mail is trackable, dated and can include all of the aspects of a formal letter including the onerous requirements to cite laws and regulations when denying or restricting installations. IDOT would like to see e-mails specifically mentioned as acceptable conveyance of documents including notifications to be given in writing, including electronic transmittal of documents though "portal systems".

It cannot be emphasized enough that permits requiring multi-departmental reviews could take months. The clock should not start until the permit is substantially complete and includes all of the required documentation needed to issue the permit. The required documents should be consistent with what is required for all permits. That criteria should be defined and include at a minimum:

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- A completed and signed application request (or form);
- A site map and a location map;
- A written description of the type, size and location of the installation;
- A street view or plan view showing the location and depiction of each item to be installed, measured and labeled with dimensions relative to the predetermined baseline (centerline, right of way etc) or using a coordinate system in an agreed upon datum;
- A cross section showing minimum clearances pertinent to the installation type (depth and heights);
- Locations of all excavation for bore pits, handholes, borings, etc.;
- Type size and location of all appurtenances, service lines, access point for future access etc;
- Soils analysis if required for foundation work;
- Structural analysis where needed.

A large portion of the NPRM/NOI seems to go into detail about discussing possible changes to Historic Preservation and Environmental Protection reviews of placing radio towers, especially on Tribal Lands. Most of this is federal review process suggested changes, but may impact the speed and volume of ROW permit requests we receive as cellular providers continue to improve their coverage.

IDOT appreciates the opportunity to comment on this NPRM. Reviewers of these comments that have questions may contact Amy Eller, Bureau Chief of Operations, Operations Engineer, located at 2300 South Dirksen Parkway, Room 009, Springfield, Illinois 62764, by telephone at (217) 782-7231.

Sincerely,



Randall S. Blankenhorn
Secretary