

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

In the Matter of

Accelerating Wireless Broadband	]	WT Docket No. 17-79
Deployment by Removing Barriers to	]	
Infrastructure Investment		

Comments of  
Citizen Potawatomi Nation  
Tribal Historic Preservation Office

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## CITIZEN POTAWATOMI NATION

June 15, 2017

The Citizen Potawatomi Nation values the government-to-government relationship with the Federal Communications Commission (FCC). We are welcoming of the opportunity to comment on the Docket 17-79: Accelerating Wireless Broadband Barriers to Infrastructure Investment. We have been heavily reliant on the Tower Construction Notification System (TCNS) since the fall of 2015 to engage in the infrastructure development process, and utilizing it in some fashion since 2009. Currently we see this as one of the most efficient tools for executing the duties of our Tribal Historic Preservation Office.

### Considerations of an undertaking for the section 106 process

We believe that the FCC should continue to consider antenna structures and small cell 5G technology as a federal undertaking. The FCC is the regulatory agency responsible for assigning the frequencies that these technologies use. Therefore any project, ground disturbing or not, that uses communication frequencies should be subject to the same historic preservation laws as all federal undertakings. CPN understands the importance of continuing to innovate and expand the infrastructure and technologies that allow our communications.

We are willing to engage in an open and informed consultation with the FCC to discuss making smaller projects expedited, however we are not in favor of exempting activities from complete oversight. We believe that the FCC has a trust obligation to federally recognized Indian Nations of the United States to guarantee proper consultation on all projects that are federal undertakings, no matter how small. When it comes to collocation projects that are taking place off of trust property, CPN is in favor of discontinuing the comment process. We understand that these projects are being placed on structures that will be supervised by SHPO's.

### Right of Way

We are not willing to exempt the ROW projects. While attending the To Bridge a Gap conference hosted by Cherokee Nation in February of 2017, we had the opportunity learn and ask questions about these projects. When asked if the ROW's the companies will be placing their poles in have had a survey



conducted during a time period when THPO's were allowed comment, the FCC representatives confirmed that no such survey exists.

Since many towns were laid out over areas historically occupied by CPN, we are not willing to exclude these projects from our consultation process. We believe these projects can be batched together, as long as they are in ½ mile radius, and submitted the TCNS system. While roads and other infrastructure may exist in the vicinity of the area where small cell poles are being placed, there is no way of knowing what may be beneath the surface. The majority of the ROW's in this country were granted prior to the amendments to the NHPA that allowed for tribal comment on federal projects. We are not willing to recognize the validity of those ROW's and the poles being placed within them without proper consultation.

#### Areas of Interest

When considering what we choose to comment on, CPN has selected specific areas of interest pertinent to their oral and recorded history. Due to multiple removals and pressures due to colonial activity in the Great Lakes region, CPN has a broad area of interest compared to other Nations which have not faced as many removals. We do not make 'blanket claims' to the United States and have carefully selected the counties that we believe we have rights to be voicing our opinion on protecting.

#### Timing of opinions and claims of Tribal delay

The claims of delays caused by Tribes participating in the TCNS comment process is not supported by the data we track in our office. On average, from the date of email notification from the FCC it takes 67 days for the contractors to give our office all the documentation we ask for. We request these documents up front in the TCNS system and need these records to make an informed decision after our initial survey of tribal documents. It is a regular problem to have delays caused not by our lack of submitting responses to projects, but by contractors and TCNS projects waiting to act on their own submissions to the system.

Less 50% of the projects that have been submitted to us for tracking since March 18, 2016 have had the necessary documents sent to us in order for us to make an informed decision. Once we have the information our office needs, we have an average response time of 21 days. That is well within our 30 day response time. While we may occasionally misplace paperwork or have other job duties that delay responses, only 0.013% of the projects we have acted as a consultant on since March 18, 2016 have exceeded a 45 day time period after

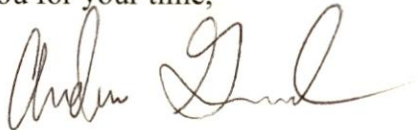
we receive our documents. Never once has our office exceeded 100 days to get a response to a consulting party.

This data starkly contrasts that of the consultants who are responsible for ensuring that we receive all the proper documents. Of the 40% of requests for which we have received proper documentation, 59% of those exceed 45 days. In the most extreme case it took 271 days from notification in order for our office to receive the proper documentation. That is more than double what our worst day looks like. Keeping in mind there are still projects we received notification about in May of 2016 for which we have not yet received any documentation about other than its latitude and longitude.

In our opinion we are acting in good faith with the FCC and the telecommunication companies' consultants. I do not begrudge the individuals who we work with, and I will not call any company out specifically; but there are false equivocations being made stating that tribes are responsible for the delays on these cell tower projects. Our facts do not support this claim, and in fact show that it is the industry that is responsible for delays.

We thank the FCC for continuing to listen to Tribal Nations and allowing the opportunity to voice our opinions on topics that have the potential to have great impacts on the Historic Preservation process. We hope that the Chairman and other Commissioners take our comments seriously and will engage in meaningful government-to-government interactions outside of this Electronic Comment Filing System.

Thank you for your time,

A handwritten signature in black ink, appearing to read "Andrew Gourd", written in a cursive style.

**Andrew Gourd**

**Citizen Potawatomi Nation**

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