

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Accelerating Wireless Broadband Deployment)	WC Docket No. 17-79
by Removing Barriers to Infrastructure)	
Investment)	
)	
Revising Historic Preservation Review Process)	WT Docket No. 15-180
for Wireless Facility Deployments)	

**COMMENTS OF THE COMPUTING TECHNOLOGY INDUSTRY ASSOCIATION
(COMPTIA)**

I. Introduction and Summary

The Computing Technology Industry Association (CompTIA) is a non-profit trade association serving as the voice of the information technology industry. With approximately 2,000 member companies, 3,000 academic and training partners and nearly 2 million IT certifications issued, CompTIA is dedicated to advancing industry growth through educational programs, market research, networking events, professional certifications and public policy advocacy.

CompTIA's membership includes not only ISPs providing wireless broadband service, but also many companies whose products and services rely on their own and their customers' access to wireless broadband. Next generation wireless networks are also the key to the future of the Internet of Things (IOT), which will connect more devices to the internet than ever before, and thus will require more network capacity and faster speeds than our current networks can provide. We have worked for years at both the federal and state levels to help remove regulatory barriers to the deployment of wireless infrastructure, and appreciate the opportunity to comment in response to such a critical NPRM.

The wireless industry is changing rapidly and next generation networks will incorporate more small cells and DAS antennas into wireless networks than ever before. Unfortunately the laws and processes for tower siting have not kept pace. In many cases the process for deploying small cells is identical to the process for building a tower. These processes and regulations were fine when a town needed just a single tower for all of its wireless coverage, but they create serious problems when a company needs to deploy hundreds of small cells per town. These laws badly need to be updated, and they need to be updated quickly to prevent cities and states from missing out on the future of wireless connectivity.

Fortunately the FCC has proposed several changes to their tower siting regulations in this NPRM that could make a significant impact to the future of wireless infrastructure deployment. While most of the real change will need to occur at the state and local levels, the FCC has a role to play too, and can intervene to “reduce . . . the impediments imposed by local governments upon the installations of facilities for wireless communications.”¹ Sec. 332(c)(7)(B)(ii) also allows the FCC to ensure that state and local governments act on requests for wireless deployment within a reasonable period of time.² Under this authority, the FCC can make key changes in two ways through this rulemaking: 1) shortening the shot clock for state and local governments to review and act on wireless facility applications; and 2) establishing a “deemed granted” remedy if a state or local government does not act by the shot clock deadline. Both of these changes could dramatically improve wireless facilities deployment nationwide.

II. Shortening the Shot Clock for Wireless Facilities Deployment

The FCC determined in its 2009 Shot Clock Declaratory Ruling that a “reasonable period of time” under Sec. 332(c)(7)(B)(ii) was 90 days for localities to review and act on collocation applications, and 150 days for all other wireless facility applications.³ However, in the FCC’s 2014 Infrastructure Order it created a new 60-day shot clock for completion of eligible facilities requests based on Sec. 6409 of the 2012 Spectrum Act.⁴ These requests included: “(A) collocation of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.”⁵ The Commission should now consider adopting this 60 day shot clock for the approval of small cell facility applications.

Small cells, by their nature, should not be subject to the same timelines as large wireless towers because they take up little physical space and are generally attached to existing infrastructure such as utility poles, street lights, and buildings. For that reason, far fewer considerations need to be taken in determining whether to approve an application for deployment of a small cell. In fact, a small cell is much closer in nature to a collocation (“the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes”⁶) than they are to traditional wireless towers. As stated above, the shot clock for collocation requests is currently 60 days.

A 60 day shot clock for the approval of small cell facility applications would help to speed the deployment of next generation networks and lay the groundwork for 5G, and the Commission

¹ *In re Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Revising the Historic Preservation Review Process for Wireless Facility Deployments*, WT Docket No. 17-79, WT Docket No. 15-180, Notice of Proposed Rulemaking and Notice of Inquiry, para. 5 (2017) (“Wireless Infrastructure NPRM”).

² See 47 U.S.C. § 332(c)(7)(B)(ii).

³ Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7) to Ensure Timely Siting Review, Declaratory Ruling, 24 FCC Rcd 13994, 14004, 14012-13, paras. 32, 45-48 (2009) (*2009 Shot Clock Declaratory Ruling*).

⁴ Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd 12865 at 12956-57, para. 215 (2014) (“*2014 Infrastructure Order*”).

⁵ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, § 6409(a) (2012) (Spectrum Act), codified at 47 U.S.C. § 1455(a).

⁶ *2014 Infrastructure Order*, 29 FCC Rcd. at para. 178 (2014).

should adopt this new definition of “reasonable period of time” as it relates to small cell facilities.

III. Deemed Granted

In addition to the 60 day shot clock for small cells, the Commission should adopt a deemed granted remedy if a state or local agency fails to act on an application by the shot clock deadline. As noted in the NPRM, in 2014 the Commission adopted a deemed granted remedy for applications subject to Sec. 6409(a) of the Spectrum Act,⁷ and it would be an appropriate remedy here as well. Under the FCC’s current rules, if an agency fails to act on an application by the appropriate deadline, the applicant has no other option but to sue the agency to get their application granted.⁸ Litigation is lengthy, costly, and uncertain, and could deter an ISP from pursuing a remedy and perhaps from deploying their small cells altogether. Adopting a deemed granted remedy would both reduce deployment costs and significantly shorten the timeline for small cell deployment, and would ultimately result in the improvement and expansion of next generation wireless networks.

While the reasoning for using a deemed granted remedy in the Infrastructure Order does not apply here, the Commission still has the legal authority to adopt one in this proceeding and should indeed do so. The Commission can offer interpretations of Sec. 332(c)(7), and Sec. 332(c)(7)(B)(ii) can reasonably be interpreted to allow for a deemed granted remedy through the use of an irrebuttable presumption. The Fourth and Fifth Circuits’ decisions further bolster the Commission’s ability to interpret this statute and this particular interpretation of it.⁹ For all these reasons, the Commission should adopt a deemed granted remedy for small cell deployment.

IV. Conclusion

The FCC can only do so much on its own to promote the deployment of wireless broadband infrastructure, but it should pass new regulations to make deployment of small cell facilities easier and more affordable. Shortening the slot clock for the approval of small cell facilities to 60 days and adding a deemed granted remedy if an agency fails to meet that deadline would go a long way towards accomplishing that goal. These changes will help usher in the next generation of wireless technology, improve capacity and speed of existing networks and bolster the growth of the IOT.

⁷ *Id* at 12957, para. 216

⁸ *2009 Shot Clock Declaratory Ruling*, 24 FCC Rcd at 14008-10, 14013-14, paras. 37-42, 49-50.

⁹ *See City of Arlington v. FCC*, 668 F.3d 229, 251 (5th Cir. 2012), *aff’d*, 133 S. Ct. 1863 (2013); *See also Montgomery County v. FCC*, 811 F.3d 121, 128 (4th Cir. 2015).