



June 17, 2019

Joshua S. Turner
202.719.4807
jturner@wileyrein.com

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation, WT Docket No. 17-79 and WC Docket No. 17-84

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("FCC") rules, 47 C.F.R. § 1.1206, Crown Castle International Corp. ("Crown Castle"), by its attorneys, hereby submits this letter summarizing an *ex parte* meeting in the above-referenced dockets.

On June 15, 2019, Ken Simon, Monica Gambino, Robert Millar, and Rebecca Hussey of Crown Castle, accompanied by Roger Sherman of Waneta Strategies and the undersigned, met with Commissioner Brendan Carr and Will Adams, Legal Advisor to Commissioner Carr.

The parties discussed the ongoing implementation and impact of the Declaratory Ruling and Third Report and Order ("September Order") in Dockets WT 17-79 and WC 17-84. Crown Castle put particular emphasis on those issues and jurisdictions where the September Order has had a positive effect in assisting with wireless facility deployment, and relayed generally that the September Order is having a strongly positive effect on its ability to deploy wireless facilities throughout the country.

The parties also talked about areas where challenges remain. In particular, Crown Castle explained the issues that it has been having getting investor owned utilities ("IOUs") to provide power to small cell installations on utility poles in a timely fashion. Without power, small cells cannot operate, but IOUs generally do not hold to any particular deadline or schedule in providing power to these facilities, meaning that in some cases it can be six months or more between when a small cell is installed and when it is powered up, on air, and providing service. Crown Castle also described the problems it has been having with some IOUs restricting access to certain parts of the poles and/or prohibiting multiple antenna placements on a

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particular pole, which can (for example) prevent the company from collocating 5G antennas on poles that already have a pole top installation. Crown Castle noted that the Commission has already exercised its authority under Section 224 of the Communications Act to bar IOUs from prohibiting pole-top access, and that similar action may be appropriate for other parts of the pole, given the advancement of technology and the forthcoming need to have multiple facilities collocated on a given pole in order to provide 5G service.

Crown Castle also discussed the issues that it is still encountering following the September Order, including unreasonably high fees for application review and inappropriate consultant charges, and described a number of outstanding issues related to Section 6409 where additional Commission action would be appropriate. These include:

- A clarification that all permits must issue during the shot clock period, and that once a deemed grant notice occurs, the local jurisdiction is obligated to provide any additional outstanding building permits;
- A clarification that under Section 6409 and the Commission's prior order, "concealment elements" are limited only to stealth facilities and are only those elements specifically identified in the original approval as such, that local jurisdictions cannot simply declare all elements of a facility "concealment" in order to evade Section 6409, and that "defeat" means a modification that fundamentally alters the design and characteristics of the structure in a way that renders previously concealed equipment visible. Such modification would not include, for example, adding height to a camouflaged tree tower, enlarging a canister or adding equipment outside of a pre-existing shelter;
- A declaration that a local jurisdiction cannot use issues unrelated to the applicant's facilities as justification for declaring a site "non-compliant" under Section 6409 with the site's original approval conditions, and as a result cannot, for example, deny a Section 6409 application because there is unrelated "blight" on the property, or because one of the other carriers on the site is out of compliance, or because it believes legal, non-conforming uses need to be brought up to current code;
- A clarification that facilities like remote radio heads associated with, mounted on, or mounted near antennas are not "equipment cabinets," and



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that “equipment cabinets” are properly understood as being limited only to ground enclosures that house or are intended to house other equipment; and

- A declaration that when Section 6409 states that a local jurisdiction shall not deny and must approve an eligible facilities request, that means that a local jurisdiction cannot issue conditional approval that would require the applicant to take certain actions (such as notification of surrounding property owners) or that would impose additional limitations (such as permit duration limitations, material and painting specifications, exterior lighting requirements, maintenance requirements, reporting requirements, and operational requirements).

Crown Castle also spoke in support of the positions articulated in the *ex parte* filed by WIA on May 20, 2019, including the request that the Commission allow up to 30 feet of pad expansion to qualify as an eligible facilities request.

Please direct any questions to the undersigned.

Respectfully Submitted,

/s/ Joshua S. Turner

Joshua S. Turner
Counsel to Crown Castle

cc (via email):

Commissioner Brendan Carr
Will Adams