

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

In the Matter of)
)
Wireless Telecommunications Bureau Seeks) WT Docket No. 15-180
Comment on Proposed Amended Nationwide)
Programmatic Agreement for the Collocation of)
Wireless Antennas)

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”) hereby submits the following comments on the request for public comment in the above referenced proceeding. In its *Amended Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (“Amended Collocation Agreement”), the Commission proposes rule changes exempting from review under Section 106 of the National Historic Preservation Act (“NHPA”) certain deployments of small wireless antennas and associated equipment.¹

I. INTRODUCTION AND SUMMARY

CCA welcomes the Amended Collocation Agreement, as well as the Commission’s broader efforts to ensure bedrock small wireless antennas, associated equipment, and small cell facility deployment policies are conducive to foundational 5G network deployment, as well as increasing coverage and spectral efficiency. Carriers increasingly are deploying Distributed Antenna Systems (“DAS”) and small cell facilities to expand and fortify their networks² and to meet skyrocketing consumer demand for high-capacity mobile wireless services. Competitive

¹ *Wireless Telecommunications Bureau Seeks Comment on Proposed Amended Nationwide Programmatic Agreement for the Collocation of Wireless Antennas*, Public Notice, WT Docket No. 15-180 (rel. May 12, 2016) (“Public Notice”).

² *See* Comments of Sprint, WT Docket No. 13-238 *et al.* at 3 (filed Feb. 3, 2014) (Carriers are increasingly using DAS and small cells to “fill coverage gaps and provide additional [network] capacity, thereby proving enhanced quality of service to their customers”).

carriers are also preparing to escalate the deployment of small-cell-driven networks, including within historic districts and areas near their perimeters or on historic properties, to support next generation wireless broadband services. By amending the current *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (“Collocation Agreement”), the Commission will provide competitive carriers much needed regulatory relief by streamlining the process for deploying small wireless antennas and associated equipment.

CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents approximately 200 associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain. CCA understands and appreciates the need to protect our country’s historic properties. As such, CCA has participated in Commission proceedings as well as legislative efforts to reduce the administrative burdens, costs, and confusion accompanying infrastructure deployment while protecting the beauty of our historic properties.³ The Amended Collocation Agreement should be applauded as yet another positive step by the Commission to prepare the telecommunications industry for 5G network deployment.

³ See, e.g., Reply Comments of Competitive Carriers Association, WT Docket No. 13-238 *et al.* (filed Mar. 5, 2014) (“CCA Reply Comments to SF NPRM”) (urging the Commission to update its rules and establish a categorical exemption from review under NEPA and the NHPA for small cell and DAS deployment, among other suggestions); see also, e.g., *Ex Parte Letter* from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, *et al.* (filed Feb. 23, 2016) (urging the Commission to develop clear and reasonable rules for deploying new facilities critical for next generation network deployment).

II. CCA APPROVES OF THE AMENDED COLLOCATION AGREEMENT, SUBJECT TO TARGETED MODIFICATIONS.

Building on the *Infrastructure Report and Order*,⁴ the proposed exclusions for small antenna and small cell deployments with minimal potential for adverse effect on historic properties rightly reflect a forward-looking approach to network deployment.⁵ Review under Section 106 of the NHPA is a persistent source of uncertainty and cost for mobile carriers of all sizes. The Commission itself has acknowledged access to broadband infrastructure is a “key barrier” to furthering investment and competition in the wireless broadband marketplace.⁶

By contrast, the Amended Collocation Agreement provides administrative relief that will benefit rural, regional and nationwide carriers alike. The proposals in large part provide reliable signposts for compliance when competitive carriers plan small cell deployments within or near historic properties. The proposed amendments are also flexible, which ensures the Amended Collocation Agreement will continue to be relevant as 5G network technology inevitably

⁴ *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865, 12867, para. 3 (2014) (“Infrastructure Report and Order”), *aff’d* *Montgomery County v. FCC*, 811 F.3d 121 (4th Cir. 2015).

⁵ *See Wireless Telecommunications Bureau Announces Execution of a Programmatic Agreement with Respect to Collocating Wireless Antennas on Existing Structures*, Public Notice, 16 FCC Rcd 5577, 5575 (2001) (the Commission acknowledged small cell technology, both by its size and appearance, genuinely poses a lesser risk to historic properties and spaces and merits a lighter regulatory touch).

⁶ *See, e.g., Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 11-121, Eighth Broadband Progress Report, 27 FCC Rcd 10342, 10344 ¶ 142 (2012) (“Eighth Broadband Progress Report”); *see also, e.g., Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 11-186 (terminated), Sixteenth Report, 28 FCC Rcd 3700, 3704 ¶¶ 328-30 (2013) (“16th Mobile Competition Report”).

evolves.⁷ CCA supports the Commission’s efforts to update the siting process in or near historic areas; nevertheless, CCA offers below a few targeted suggestions to the Amended Collocation Agreement to further modify the Collocation Agreement.

a. Stipulation V: Collocation of Antennas on Buildings and Non-Tower Structures Outside of Historic Districts.

The Commission should consider amending the 45-years-old gating factor under this Stipulation. The Commission could do so by increasing the 45-years-old age cutoff for buildings and non-tower structures outside historic districts which, for small antenna collocation conforming with the criteria established by Stipulation VI, do not require a Section 106 review. Ideally, the Commission would eliminate the age threshold entirely while preserving visibility thresholds; in the context of small antennas, equipment can often be discreetly deployed without any direct or indirect adverse effect on any historic property. Alternatively, a facility could be excluded from review, for example, if it “would require historic preservation review only because the structure on which it is mounted is over 45 years old.”⁸

Regarding Stipulation V.2, the Commission should increase siting flexibility by omitting the provision that eliminates an exclusion from Section 106 review for a building or structure within 250 feet of the boundary of a historic district. As long as the antenna conforms to

⁷ For example, even though proposed Stipulations VII.B and VII.C provide small cells otherwise excluded from review would *not* be excluded with respect to “collocations on a traffic control structure (i.e., traffic light) or on ...[another] structure whose primary purpose is to provide public lighting, where the structure is located inside or within 250 feet of the boundary of a historic district,” the Commission nonetheless allows for case-by-case basis review whereby the antenna might still be excluded from full Section 106 review. This is particularly useful, as equipment used to provide 5G is still being developed; the case-by-case review process allows the Amended Agreement to remain relevant as small cell technology evolves in both size and shape as well as capability.

⁸ See *Ex Parte* Letter by Brian M. Josef, CTIA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 13-238 *et al.* (filed Oct. 10, 2014).

visibility limits, there is no reason to arbitrarily impose an additional distance regulation. If the Commission will not eliminate this clause, CCA suggests a 50-foot boundary instead.

b. Stipulation VI: Collocation of Small Wireless Antennas and Associated Equipment on Buildings and Non-Tower Structures Outside of Historic Districts.

For Stipulation VI.A.1, the Commission should eliminate the 250-foot threshold for excluding from review the collocation of small wireless antennas and associated equipment on buildings and non-tower structures outside of historic districts. The volumetric limits encoded in the Amended Collocation Agreement would ensure antennas and equipment are small enough to justify this a modification as they could not adversely impact a historic property. If eliminating the boundary is not possible, a 50-foot boundary would provide a more reasonable threshold.

Stipulation VI.A.3 is appropriately drafted. By empowering a member of the public, or a tribal nation, or a state historic preservation office (“SHPO”) or the Advisory Council on Historic Preservation (“ACHP”) to escalate a complaint with respect to a particular site exempted from review, the Commission strikes a balance between ease of deployment and public participation. While wireless broadband service both enriches local economies and improves public safety, among other public benefits, CCA appreciates that the Commission has adequately preserved the rights of these parties to participate in the improved amended streamlined process.⁹

With respect to Stipulation VI.A.3.b, the Commission should refrain from applying the volumetric limits detailed therein (for all other wireless equipment associated with the structure) to antenna and equipment projects involving non-tower structures and buildings outside historic districts. Often, buildings and non-tower structures outside historic districts with pre-existing

⁹ See Public Notice at 3 (“In particular, our proposal has been informed by engagement with ACHP, State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and Tribal Nations”).

equipment are already heavily armed with antennas and other equipment. Accordingly, small antennas and associated equipment are highly unlikely to materially alter the existing appearance of the non-tower structure or building, nor would new antennas damage an already antenna-rich area.

c. Stipulation VII: Collocation of Small or Minimally Visible Wireless Antennas and Associated Equipment in Historic Districts or on Historic Properties.

The Commission should clarify the rule established by Stipulation VII.A.1 in conjunction with VII.A.1.a. In Stipulation VII.A.1, the Amended Collocation Agreement allows small antennas to be deployed without triggering Section 106 review on a historic property or on a building or non-tower structure if “the antenna or antenna enclosure (*including any existing antenna*)...is the only equipment visible from ground level” (emphasis added). Stipulation VII.A.1.a, however, sets a further condition that “no other antennas on the building are visible from the ground level...” One possible interpretation is that these clauses, taken together, automatically place outside the scope of the stipulation those qualifying sites with antennas already visible from the ground. Therefore, for those sites, the collocation must undergo Section 106 review. This would seem to defeat the purpose of the Stipulation VII.A.1. CCA encourages the Commission to clarify and streamline this stipulation.

Next, regarding Stipulation VII.A, the Commission should omit language subjecting to Section 106 review small antenna deployment on the interior of a building.¹⁰ Interiors likely are subject to a host of other regulatory regimes (including building codes and other historic-property specific local ordinances) that would adequately address any preservation concerns. Small antenna deployments on interior surfaces are especially unlikely to disrupt the appearance

¹⁰ In other words, CCA suggests omitting “or the interior of a building” from Stipulation VII.A.

of a historic area or to damage historic property. This is especially true where the small antenna is placed in the interior of a historic building in a portion of the building that has been updated and remodeled and is not visible from the exterior; such small antennas should surely be excluded from review. At minimum, the Commission should exclude from review projects involving the interior of a non-historic building, or buildings not in a historic district. This would also mean eliminating the exclusion threshold of 250-feet of the boundary of a historic district.

Similarly, the Commission should modify or clarify VII.A.1.c. so that small antennas installed using stealth techniques are not subject to volumetric requirements. If equipment is installed with the benefit of properly-executed stealth techniques, then the volume of the equipment likely will not materially impact visibility, especially considering the typical size of a small or minimally visible antenna and supporting equipment. At a minimum, the Commission should clarify whether materials used as part of a stealth technique should be factored into volumetric limit calculations as additional size may be necessary to appropriately conceal the wireless equipment.

To foster flexible and practical siting standards, the word “including” should *not* be eliminated in Stipulation VII.B,¹¹ which would strictly limit relief from Section 106 review only utility poles and transmission towers. CCA prefers the flexible standard articulated in the Amended Collocation Agreement, as it is conceivable many different types of utility structures could discreetly and safely house small antennas without undercutting the purpose of the Stipulation.

¹¹ See Comments of Colorado SHPO, WT Docket No. 15-180, 2 (filed June 15, 2016).

For Stipulations VII.A.2, VII.B, VII.C and VII.D, the Commission should eliminate the exclusion threshold of 250-feet of the boundary of a historic district. And as noted above, at a minimum, the threshold should be changed to 50-feet.

Stipulations VII.A.4, VII.B.4, VII.C.5.c, and VII.D.3 should be amended to reflect a flexible size standard for lightning rods, which should be determined by safety guidelines instead of an arbitrary size prescription.

CCA urges the Commission to adopt the aforementioned modifications to the Amended Collocation Agreement to further streamline small cell deployment. The suggested modifications will strengthen the Amended Collocation Agreement and further promote successful collocation without adversely impact historic properties.

III. THE COMMISSION SHOULD ADDRESS ADDITIONAL BARRIERS TO 5G NETWORK DEPLOYMENT FOR COMPETITIVE CARRIERS.

Although widespread 5G network adoption is not expected until 2020,¹² foundational rules and policies created by the Commission and other government actors will determine whether competitive carriers are successful providers of this groundbreaking technology. The Commission's attention to small cell technology deployment is timely, considering the wealth of policy and testing activity throughout the industry indicating 5G networks are becoming more concrete than theoretical. For example, the Open Trial Specification Alliance, a partnership between KT, NTT Docomo, SK Telecom and Verizon, announced in February plans to develop an aligned 5G trial specification, which could be more widely used as a platform for 5G trial activity around the world.¹³ Nokia recently filed an experimental application to test at C Spire

¹² *Business Data Services in an Internet Protocol Environment*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, FCC 16-54, 35 ¶ 78 (2016) (“BDS FNPRM”).

¹³ *See Ex Parte* Letter from Robert Kubic, Director, Public Policy, Engineering and Technology, Samsung Electronics, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177, *et al.*, (filed

headquarters in Mississippi.¹⁴ The tests will begin in July and will use Nokia prototype equipment to conduct 5G tests between 68 GHz and 76 GHz spectrum.¹⁵ T-Mobile has also sought FCC permission to test 5G technologies on 28 GHz spectrum.¹⁶ Earlier this month, Sprint and Nokia's 5G test in Santa Clara, California delivered live 4K video streaming and virtual reality experiences at speeds of up to 2.3 gbps using 73 GHz spectrum.¹⁷

The appropriate network deployment rules and policies form the necessary skeleton of this effort. CCA applauds, for example, the Section 106 Working Group whose work, pursuant to Executive Order 13616, is geared toward reforming the Section 106 review process to accelerate cheaper, more efficient broadband infrastructure deployment on federal properties.¹⁸ The National Telecommunications and Infrastructure Agency ("NTIA") recently sought comment on how government can best facilitate the Internet of Things ("IoT"). CCA similarly described how inconsistently-applied compliance rules, long-pending applications, and no recourse for denied applications often thwarts competitive carriers from expanding and

Mar. 11, 2016); *see also* NTT DOCOMO, KT, NTT DOCOMO, SK Telecom and Verizon to Form 5G Open Trial Specification Alliance (Feb. 22, 2016), *available at*: https://www.nttdocomo.co.jp/english/info/media_center/pr/2016/0222_02.html.

¹⁴ Diana Goovaerts, *CSpire, Nokia Team Up on 5G Tests in Mississippi*, *Wireless Week* (May 11, 2016), *available at*: <http://www.wirelessweek.com/news/2016/05/c-spire-nokia-team-5g-tests-mississippi>.

¹⁵ *Id.*

¹⁶ Application for New License by T-Mobile License LLC, *Description of Research Project*, *available at*: <https://apps.fcc.gov/els/GetAtt.html?id=174493&x=>.

¹⁷ Diana Goovaerts, *Sprint, Nokia 5G Test in Santa Clara Hits 2.3 Gbps*, *WIRELESS WEEK* (June 3, 2016), *available at*: <http://www.wirelessweek.com/news/2016/06/sprint-nokia-5g-test-santa-clara-hits-23-gbps>.

¹⁸ Exec. Order No. 13,616, 3 C.F.R. § 13616 (2012 - 2013), *available at* <https://www.whitehouse.gov/the-press-office/2012/06/14/executive-order-accelerating-broadband-infrastructure-deployment>.

upgrading their networks.¹⁹ CCA encourages the Commission to continue making headway in reforming facilities policy to promote next generation network deployment, improvement, and innovation.

IV. CONCLUSION

A streamlined collocation review process for historic properties and their surrounding areas, as provided by the Amended Collocation Agreement, is valuable to competitive carriers who must carefully allocate personnel and capital resources in an increasingly consolidating mobile wireless marketplace.²⁰ In a world where technical specifications for equipment and broadband technology are in a constant state of upgrade, carriers need infrastructure deployment rules that allow for innovation and experimentation. The ability to easily determine whether a historic property might be a candidate for small antenna and DAS deployment, outside the strictures of Section 106 review, is critical to allow for most efficient carrier use of limited resources. And importantly, CCA's proposed changes to the Amended Collocation Agreement would not adversely impact the beauty of historic properties. The Amended Collocation Agreement appears to serve these policy goals. With the suggested further amendments described above, CCA urges the adoption of these pragmatic, forward-looking proposals.

Respectfully submitted,

/s/ Rebecca Murphy Thompson
Rebecca Murphy Thompson
EVP & General Counsel
Elizabeth Barket
Competitive Carriers Association

June 27, 2016

¹⁹ Comments of Competitive Carriers Association, *The Benefits, Challenges, and Potential Roles for Government in Fostering the Advancement of the Internet of Things*, NTIA, Docket No. 160331306-6306-01, 17-18 (filed June 2, 2016).

²⁰ Currently, AT&T and Verizon, the two largest wireless providers, are also among the largest four BDS providers. See BDS FNPRM, attaching the Rysman Report at 221 (“The biggest four [largest providers of BDS] are ILECs, followed by a set of cable companies and CLECs”).