



Wireless  
Infrastructure  
Association

August 30, 2018

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Communication, Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84**

Dear Ms. Dortch:

On August 28, 2018, Jonathan Adelstein, and the undersigned of the Wireless Infrastructure Association (WIA)<sup>1</sup>, met with Will Adams of Commissioner Carr's office.

In the meeting, consistent with our comments<sup>2</sup> in the above-captioned proceedings, WIA thanked Commissioner Carr for his leadership and emphasized the importance of the Federal Communications Commission (FCC or Commission) continuing its efforts to reduce regulatory barriers to wireless infrastructure deployment. WIA encouraged the FCC to continue streamlining the siting process to enhance capacity on 4G networks and spur the deployment of next-generation 5G networks as the Commission prepares for additional action in these proceedings.

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<sup>1</sup> The Wireless Infrastructure Association (WIA) is the principal organization representing companies that build, design, own, and manage telecommunications facilities throughout the world. WIA's members include carriers, infrastructure providers, and professional services firms.

<sup>2</sup> See Comments of the Wireless Infrastructure Association, WT Docket No. 17-79, WC Docket No. 17-84 (filed Jun. 15, 2017), *available at* <https://bit.ly/2te5InI>; see also Reply Comments of the Wireless Infrastructure Association, WT Docket No. 17-79, WC Docket No. 17-84 (filed Jul. 17, 2017) *available at* <https://bit.ly/2lathIA>.

Specifically, WIA asked the FCC to utilize its existing statutory authority under Sections 253 and 332 of the Communications Act. WIA discussed expediting the deployment of small cell infrastructure within public rights-of-way (ROW), with equipment that meets defined height and volume limitations to maintain a responsible and transparent foundation in infrastructure deployment.<sup>3</sup> WIA noted that cumulative volumetric limits help ensure responsible deployment in ROW.<sup>4</sup> WIA encouraged the FCC to tighten shot clocks for small cell deployments, substantial modifications to facilities, and new macro sites. WIA emphasized that for shot clocks to be effective, the timeframe must include all elements of the siting review process.

WIA also urged the Commission to adopt a reasonable, cost-based fee standard for deployments in the ROW to eliminate excessive fees that state and local governments charge. WIA emphasized that localities should grant access to ROWs in a non-discriminatory manner.

In addition to Section 332 and 253 concerns, WIA noted that its members continue to face regulatory hurdles when applying for Eligible Facilities Requests (EFRs) under Section 6409 of the Spectrum Act. Such hurdles include jurisdictions denying the applicability of Section 6409 to their siting process, placing improper conditions on permits, refusing to issue building and other permits to construct EFRs that have been “deemed granted,” abusing the exception for concealment modifications, forcing providers to agree to contractual prohibitions against use of EFRs, and using “amortization” requirements to evade EFRs.<sup>5</sup>

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<sup>3</sup> See Comments of the Wireless Infrastructure Association, WT Docket No. 17-79, WC Docket No. 17-84 (filed Jun. 15, 2017) at 5 n.16 (describing a volume and height-based definition for “small wireless facility”).

<sup>4</sup> See Letter from Richard Rossi & Mneesha Nahata, American Tower Corporation, to Marlene Dortch, Secretary, FCC, WT Docket No. 17-79 (filed August 10, 2018) at 7-10.

<sup>5</sup> See Letter from Kenneth J. Simon & Monica Gambino, Crown Castle International Corp., to Marlene Dortch, Secretary, FCC, WT Docket Nos. 17-79 & 16-421 (filed August 10, 2018) at 15-19.

For instance, WIA members have reported that certain jurisdictions will not respond to an application before the shot clock runs out, but when the infrastructure provider attempts to proceed with the deemed approved project, they are prevented from obtaining a building permit. These jurisdictions claim Section 6409 does not cover building permits or zoning. This effectively eliminates the benefit of deemed approved, putting the project in an unlawful state of limbo at odds with the intent of the law that the municipality “may not deny, and shall approve.”<sup>6</sup> WIA encouraged the FCC to clarify that all elements of the siting approval process are subject to the shot clock and define the process by which a shot clock violation results in a deemed approved finding thereby allowing continuation of a project.

Additionally, some jurisdictions are inappropriately using the height, color, or other characteristics of a permitted facility as a concealment factor. Jurisdictions are using these concealment factors inappropriately, attempting to evade the intent of Section 6409 to accelerate deployments. The FCC should clarify that these elements should not prevent otherwise eligible wireless infrastructure from availing itself to the benefits of 6409(a). WIA asked the FCC to clarify the process for local approval of Section 6409(a) EFRs to eliminate misinterpretations of previously-issued Commission rules.

Finally, WIA urged the Commission to harmonize the differing rules that apply to compound expansions. WIA explained that the 2004 Programmatic Agreement excluded from review construction of a replacement structure that did not substantially increase the size of the existing tower and that did not expand the boundaries of the leased or owned property surrounding the tower by more than thirty feet in any direction or involve excavation outside these expanded boundaries. This relief has been beneficial for broadband expansion. However, any site expansion to accommodate additional equipment associated with the collocation of a new antenna or transmission equipment still requires a full review, even if the expansion is as little as one foot. WIA highlighted

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<sup>6</sup> Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”), Pub. L. No. 112-96, 126 Stat. 156, 232-33 § 6409(a) (2012) [codified at 47 U.S.C. § 1455(a)].

that this unnecessary requirement is expensive, time-consuming, and could slow 5G rollout as compound expansions are needed for data centers at the edge. Providing the same thirty-foot allowance exclusion for compound expansions for collocations as currently exists for replacement towers would have a significant impact in reducing deployment delays and expenses.

WIA appreciates the FCC's efforts to find practical, reasonable regulatory structures to speed the deployment of 5G for all Americans and encourages the Commission to use its authority to continue to streamline wireless infrastructure deployment.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter will be filed via ECFS and provided to each participant. Please do not hesitate to contact the undersigned with any questions.

Respectfully submitted,

/s/Sade Dada

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