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National Conference of State Historic Preservation Officers

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December 7, 2017

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC

Re: Public Notice of Draft Program Comment Addressing Collocation on Twilight Towers,  
WT Docket No. 17-79

Dear Ms. Dortch:

On behalf of the National Conference of State Historic Preservation Officers (NCSHPO), we thank you once again for the opportunity to provide comments – this time regarding a proposal for what your agency refers to as “Twilight Towers.” Overall, we certainly agree that it would be advantageous for industry to be able to utilize existing towers to collocate equipment rather than requiring the installation of additional ones. But we believe that an approach that simply excludes these towers from review is inappropriate.

NCSHPO has worked with the FCC for a few years to try to come up with a solution for what we instead refer to as “Non-Compliant” towers. We have heard for quite some time that industry considers and defines the period between the adoption of the 2001 Collocation Agreement and the 2005 Nationwide Programmatic Agreement as an era where sufficient ambiguity existed as to how to comply with the National Historic Preservation Act of 1966. We first would like to dispel any notion that this point of view was universal – as the state of Colorado has pointed out in their own comments, 742 tower reviews were submitted to their office alone within that period from a variety of carriers. Why some carriers were able to pursue review and others did not can certainly be debated. But the record should show that indeed there were carriers who understood what was required and chose to comply.

Regardless of the motivation for not completing Section 106 review, the problem we are facing, is that we are dealing with towers for which their impact upon historic properties has either not been evaluated or for which documentation cannot be located. Naturally, when trying to consider a path forward, our members have asked two basic questions – how many are there, and where are they located? Unfortunately on these two points we have had only some cooperation – a total of 4,298 potential towers have been identified by the members of the two major associations representing the industry. Beyond this, we have no idea where they are – not even how many are located in each state. Without this basic level of information it has been difficult to identify an efficient way forward. The level of documentation, the number of submissions that could be submitted at once, and the timeframe for review would vary greatly depending on whether a state had 20 towers or 1,000.

There is also, of course, the question of the effects that these towers have had on historic properties. In our view, the position stated in your agency's Notice of Proposed Rulemaking that "... *these towers have been standing for 12 years or more and in the vast majority of the cases, no adverse effects have been brought to our attention*" is not acceptable. While indeed many towers may have had no adverse effects, in some instances adverse effects could be present but not brought to your attention. Obviously, thousands of towers may have been installed without SHPO knowledge, so our members would not have been able to flag them as a problem. But beyond this, a member of the public (who would be the most likely source for such a tip), for example, may have no idea whether a particular tower was vetted through proper regulatory processes. They may also have no idea who to contact, what the protocol would be, or what legal options are at their disposal. And, given the fact Industry has argued that their responsibility during this time was "unclear," a concerned citizen could very well have been told by any number of regulators or tower owners there was "nothing they could do." Excluding from review non-compliant towers to facilitate the collocation of yet even more equipment would add insult to injury. Bypassing due process, because your agency is unaware of any issue, or because you think too much time has passed, is simply not the right thing to do.

We all share the same common goal – to find a solution so that these towers can be used for collocations. Once again, NCSHPO stands ready to work with your agency as well as the Advisory Council for Historic Preservation, who is responsible for issuing the Program Comment your agency has drafted for them.

Thank you for the opportunity to submit these comments.

Sincerely,



Erik M. Hein  
Executive Director