



October 1, 2014

**VIA ELECTRONIC FILING**

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

**Re: Ex Parte Communication: WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59**

Dear Ms. Dortch:

On September 29, 2014, D. Zachary Champ and the undersigned of PCIA – The Wireless Infrastructure Association (“PCIA”) spoke via telephone with David Goldman of Commissioner Rosenworcel’s office. Then, on September 30, Jonathan Campbell, D. Zachary Champ, and the undersigned of PCIA met with Louis Peraertz of Commissioner Clyburn’s office. Consistent with its recommendations in the Broadband Acceleration docket,<sup>1</sup> PCIA emphasized that clear Federal Communications Commission (“FCC” or “Commission”) rules in this proceeding will promote broadband deployment, encourage investment in upgraded wireless infrastructure, and improve service coverage, capacity, and quality for consumers.

PCIA requested that the Commission streamline its environmental and historic review process for distributed antenna systems (“DAS”) and small cells and adopt the PCIA recommendation amending Note 1 to Section 1.1306 to categorically exclude facilities that meet a technology-neutral, volume-based definition.<sup>2</sup> Because these facilities have, at most, a *de minimis* effect on the environment, PCIA explained that the FCC has authority to propose the exclusion. PCIA also reaffirmed its support for the industry-supported dimensions set forth in the definition of Communications Facility Installations.<sup>3</sup>

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<sup>1</sup> *In re* Acceleration of Broadband Deployment by improving Wireless Facility Siting Policies; Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of way and Wireless Facilities Siting; Amendment of Parts 1 and 17 of the Commission’s Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications for Certain Temporary Towers; 2012 Biennial Review of Telecommunications Regulations, *Notice of Proposed Rulemaking*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59, RM-11688, FCC 13-122 (rel. Sept. 26, 2013) (“NPRM”).

<sup>2</sup> See Letter from D. Van Fleet Bloys, PCIA–The Wireless Infrastructure Association, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59, (filed July 24, 2014); Comments of PCIA – The Wireless Infrastructure Association, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59, RM-11688, at 6-9 (Feb. 3, 2014) (“PCIA Comments”).

<sup>3</sup> See PCIA Comments at 7-8 (allowing for an equipment enclosure no larger than seventeen cubic feet, an antenna enclosure no larger than three cubic feet, and delineating additional equipment excluded from the volume

PCIA urged the Commission to implement Section 6409(a) and ensure predictability for all parties when submitting an Eligible Facilities Request (“EFR”).<sup>4</sup> PCIA asserted that EFRs must be approved within forty-five days, including eligible legal, non-conforming structures, but that jurisdictions may require adherence to building codes and may mandate that the tower remain camouflaged.<sup>5</sup> PCIA noted that tying the definition of “existing” to zoning approval could be problematic if a modification or installation was approved outside the zoning approval process; such is often the case for DAS installed in rights-of-way. Finally, to carry out Section 6409(a)’s “shall approve” mandate, the FCC should implement a “deemed granted” remedy.<sup>6</sup>

PCIA also highlighted its revised proposal for “substantially change the physical dimensions.”<sup>7</sup> This industry-supported definition allows for the highest, best use of utility infrastructure while crafting a new, tailored standard for buildings and other non-utility structures. PCIA underscored its recommendation that the Commission allow only changes up to the “substantial change” standard, tying the baseline tower size to the structure’s last zoning approval or the date of the promulgation of FCC rules, whichever is later, to avoid an unlikely scenario in which successive insubstantial changes allow the tower to impermissibly grow in size.<sup>8</sup>

Pursuant to Section 1.1206 of the FCC’s rules, this notice will be filed via ECFS and a copy will be provided via email to the attendees. Please contact the undersigned with any questions.

Sincerely,



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CC: David Goldman, Louis Peraertz

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limitations); *see also* Letter from D. Zachary Champ, PCIA – The Wireless Infrastructure Association, WC Docket No. 11-59, GN Docket No. 12-354 (filed July 22, 2013) (introducing the volume-based exemption).

<sup>4</sup> *See* PCIA Comments at 24-53; Reply Comments of PCIA – The Wireless Infrastructure Association, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59, RM-11688, at 15-26 (Mar. 5, 2014) (“PCIA Reply Comments”).

<sup>5</sup> PCIA Comments at 41-50; PCIA Reply Comments at 18-19.

<sup>6</sup> PCIA Comments at 50-53; *see* Letter from William J. Sill, Wilkinson Barker Knauer, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59, (filed Sept. 19, 2014) (underscoring PCIA’s and CTIA –The Wireless Association’s® support for a “deemed granted” remedy and proffering an alternative court remedy to enforce Section 6409(a)).

<sup>7</sup> *See* Letter from D. Van Fleet Bloys, PCIA–The Wireless Infrastructure Association, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59, (filed Sept. 18, 2014); *accord* Letter from Tamara Preiss, Verizon, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 13-238 (filed Sept. 17, 2014); Letter from Brian M. Josef, CTIA –The Wireless Association®, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59 (filed Sept. 25, 2014).

<sup>8</sup> *See* PCIA Comments at 38-39.