



October 7, 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 October 3, 2014, Jonathan Adelstein and the undersigned of PCIA – The Wireless Infrastructure Association (“PCIA”) met with Commissioner Ajit Pai and his legal advisor Brendan Carr. Consistent with its recommendations in the Broadband Acceleration docket,¹ 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 preservation review processes for distributed antenna systems (“DAS”) and small cells and adopt the PCIA recommendation to categorically exclude facilities that meet a technology-neutral, volume-based definition.² Because these facilities have, at most, a *de minimis* effect on the environment and historic properties, PCIA explained that the FCC has authority to adopt the exclusion. PCIA also reaffirmed its support for the industry-supported dimensions set forth in the definition of Communications Facility Installations.³

¹ *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”).

² 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”).

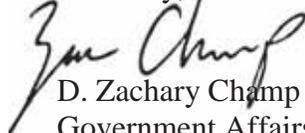
³ See PCIA Comments at 7-8 (allowing for an equipment enclosure no larger than seventeen cubic feet, an antenna enclosure no larger than three cubic feet, and delineating additional equipment excluded from the volume limitations); see also Letter from D. Zachary Champ, PCIA – The Wireless Infrastructure Association, WC Docket No. 11-59, GN Docket No. 12-354 (filed July 22, 2013) (introducing the volume-based exemption).

Brendan Carr exited the office and subsequently PCIA requested the FCC adopt rules implementing Section 6409(a) that would provide clear definitions and application guidelines to ensure predictability for all parties when submitting an Eligible Facilities Request (“EFR”).⁴ PCIA highlighted the need for flexibility in defining what constitutes an “existing” facility for the purposes of Section 6409(a).⁵ While a tower or base station’s zoning approval could be one method for determining whether a facility is “existing” for the purposes of 6409(a), PCIA noted that in some instances wireless facilities can be lawfully constructed without undergoing zoning or land use review. For example, at the time the tower or other wireless facility was constructed, there may not have been a local zoning or land use code in place, and such facility was only subject to building code or other compliance requirements. Therefore, PCIA recommended a broad definition that would allow a party submitting an EFR to demonstrate that a facility is “existing” if it complied with the regulations necessary at the time it was constructed.

Further, to carry out Section 6409(a)’s “shall approve” mandate, PCIA urged the FCC to implement a “deemed granted” remedy.⁶

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. Please contact the undersigned with any questions.

Sincerely,



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CC: Brendan Carr

⁴ 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”).

⁵ PCIA Comments at 34-36.

⁶ *Id.* 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)).