



October 14, 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 9, 2014, D. Zachary Champ and the undersigned of PCIA – The Wireless Infrastructure Association (“PCIA”) spoke via telephone with Erin McGrath in Commissioner O’Rielly’s office. Then, on October 10, D. Van Fleet Bloys and the undersigned of PCIA spoke via telephone with David Goldman in Commissioner Rosenworcel’s office. In both meetings, PCIA expressed support for the Federal Communications Commission’s (“FCC” or “Commission”) forthcoming Report & Order on accelerating broadband deployment.

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.¹ PCIA called on the Commission to adopt the industry-supported dimensions set forth in the definition of Communications Facility Installations.² As part of that definition, PCIA clarified that the exclusion of three cubic feet for antennas deployed as part of a Communications Facility Installation should apply to *each* antenna rather than to all antennas cumulatively. PCIA agreed with Verizon that when more than one antenna is deployed at a single site, the total volume of antennas may not exceed six cubic feet.³ PCIA also supports Verizon’s proposal to

¹ 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”).

² 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) (“PCIA CFI Ex Parte”) (introducing the volume-based exemption).

³ See Letter from Tamara Preiss, Verizon, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 05-265, (filed Oct. 9, 2014) (“Verizon Oct. 9 Letter”).

broaden the historic preservation exclusion to allow siting of these minimally intrusive facilities on any facility provided no historic properties are affected.⁴

PCIA urged the Commission to omit certain ancillary and supporting equipment and structures (“Ancillary Equipment”) from the cumulative Equipment Volume calculation for Communications Facility Installations.⁵ However, should the FCC not accept the complete category of Ancillary Equipment, at minimum the Commission should omit from the Equipment Volume calculation: (1) vertical cable runs for the connection of power and other services, the volume of which may be too difficult to calculate; and (2) any Ancillary Equipment outside of the applicant’s ownership or control, such as equipment installed by the power or telecommunications provider that are necessary for the operation of wireless facilities.

PCIA also urged the Commission to adopt rules implementing Section 6409(a).⁶ To best leverage non-tower structures for expedited broadband deployment, the Commission should define “substantially change the physical dimensions” to mean: (1) the mounting of the proposed antenna will protrude more than six feet from either the building’s façade or other structure’s outer dimensions, including any appurtenances on the building or other structure; or (2) the mounting of the proposed antenna will increase the existing overall height of the building or other structure, measured from the highest point of the building or other structure including any appurtenances, by more than fifteen feet or 10%.⁷ At a minimum, the Commission should adopt Verizon’s proposal maintaining the 10% height limit and establishing a minimum allowance of ten feet in height.⁸ As many PCIA members deploy facilities in a similar fashion as Verizon, this expanded definition will allow for collocations and modifications on buildings, water towers, and utility poles that local jurisdictions have previously approved for, and that currently support, wireless facilities.

Finally, to carry out Section 6409(a)’s “shall approve” mandate, PCIA urged the FCC to implement a “deemed granted” remedy.⁹ Because Eligible Facilities Requests (“EFR”) require at most an administrative review due to the minimal amount of information the applicant must submit and the jurisdiction consider, a local jurisdiction should complete its review of the EFR

⁴ *See id.*

⁵ *See* PCIA CFI Ex Parte (noting that “[a]ssociated electric meter, concealment, telecom demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of Equipment Volume.”); *see also* Letter from Robert Vitanza, AT&T, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59 (filed Aug. 11, 2014) at 2-3 (graphically differentiating between wireless equipment and associated, non-carrier power equipment on the same utility pole).

⁶ *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”).

⁷ *See* Letter from D. Van Fleet Bloys, PCIA, to Marlene Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59 (filed Sept. 18, 2014).

⁸ *See* Verizon Oct. 9 Letter; Letter from Tamara Preiss, Verizon, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 05-265 (filed Oct. 10, 2014) (describing the wireless antennas that fit into this definition to explain Verizon’s rationale for these numbers).

⁹ 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)).

within a 45 day period. At a minimum, the Commission should adopt a shot clock of no more than 60 days to ensure that these minimally impactful deployments are granted the expedited review and approval that Congress intended.¹⁰ The Commission should also recommend, as the expert agency, injunctive relief as the basis for judicial review of cases arising under Section 6409(a).

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; Erin McGrath

¹⁰ See Letter from Jonathan M. Campbell, PCIA, and Brian M. Josef, CTIA, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59, (filed Oct. 10, 2014) (explaining why a shorter time frame is warranted for EFR review).