Before the
Federal Communications Commission
Washington, D.C.

In the Matter of	)	
	)	
Program Alternative for	)	**WT Docket No. 15-180**
Small Wireless Communications	)	
Facility Deployments	)	

COMMENTS OF AT&T

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AT&T Services, Inc.

Robert Vitanza
Linda Hood
Gary L. Phillips

208 S. Akard Street
Rm 2914
Dallas, Texas 75202
(214) 757-3357 (Phone)
(214) 746-2212 (Fax)

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AT&T Services, Inc., on behalf of its affiliated companies, (collectively "AT&T") files these comments in response to a Public Notice[1] released by the Federal Communications Commission ("Commission") proposing a new program alternative to streamline the review of small cell facilities under Section 106 of the National Historic Preservation Act ("NHPA").[2]

I. INTRODUCTION AND SUMMARY

Since 2001, the Commission has taken a series of steps to clarify Section 106 responsibilities for licensees, structure owners, and network operators and facilitate network deployments in light of those responsibilities. At that time, the Commission, Advisory Council on Historic Preservation ("ACHP"), and National Conference of State Historic Preservation Officers ("NCSHPO") adopted the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* ("Collocation NPA"),[3] streamlining the Section 106 process by excluding from review collocations that were unlikely to have an adverse effect on historic resources. The 2004

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[1] *Public Notice*, Revising The Historic Preservation Review Process For Small Facility Deployments, WT Docket No. 15-180 (2015) ("*Public Notice*").

[2] 54 U.S.C. §306101 *et. seq.*

[3] 47 C.F.R. Part 1, Appendix B ("*Collocation NPA*").

Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission ("Section 106 NPA")[4] adopted further exclusions from Section 106 review and provided detailed procedures for undertaking the Section 106 process. In 2005, the Commission released a Declaratory Ruling clarifying the process for tribal contacts under the Section 106 NPA.[5]

While the macrocell facilities contemplated by the Collocation NPA and Section 106 NPA (collectively, "NPAs") will continue to be a mainstay of wireless networks, those networks have evolved substantially since 2005. Fueled by an ever-increasing demand for data and facilitated by advancements in technology, wireless providers have supplemented their networks by deploying distributed antenna systems ("DAS"), small cells, and other low mounted, low profile facilities (collectively, "small cell facilities") closer to the customer. These technologies improve coverage and broadband penetration in difficult to serve areas, yet present a very low risk of an adverse effect on historic resources. Requiring Section 106 review for these advanced networks subject licensees, structure owners, and network operators to unjustified delays, costs, and administrative burdens, with no attendant benefits to historic resources.

To its credit, the Commission has recognized that applying macrocell-centric Section 106 processes to small cell facilities unnecessarily impedes broadband infrastructure deployment, leading to release of last year's *Infrastructure Order*.[6] The Commission also committed to a

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[4] 47 C.F.R. Part 1, Appendix C ("*Section 106 NPA*").

[5] Clarification of Procedures for Participation of Federally Recognized Indian Tribes and Native Hawaiian Organizations Under the Nationwide Programmatic Agreement, *Declaratory Ruling*, 20 FCC Rcd 16092 (2005).

[6] Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, WT Docket No. 13-238, WC Docket No. 11-59, WT Docket No. 13-32, Report and Order, 29 FCC Rcd 12865 (2014) ("*Infrastructure Order*").

program alternative to further streamline the Section 106 process for small cell facility deployments, with the intention to conclude that process within 18-24 months.[7] AT&T applauds these Commission efforts and its commitment to the program alternative, which represents the next step to streamline the Section 106 process for small cell facilities while continuing to protect historic resources.

To a certain extent, the amendments to the Collocation NPA enacted as part of this program alternative may borrow from the NPAs and the *Infrastructure Order*. However, blind adherence to all of the terms and bounds of the NPAs, the Collocation NPA in particular, will not further the goal of this program alternative—to identify "additional exclusions and/or alternative processes that would facilitate greater efficiencies and . . . expedite Section 106 reviews and reduce burdens on all parties[,]" while ensuring that only deployments with significant potential to affect historic properties continue to receive appropriate scrutiny.[8] For example, the Commission proposes limiting additional Section 106 exclusions if the small cell facility is visible from or within a designated proximity of a historic district or if ground disturbance is required. These types of proximity, visibility, and ground disturbance restrictions may be appropriate in the context of macrocell collocations, and consequently are prevalent in the Collocation NPA. However, they are not appropriate for small cell facility installations.

The Section 106 NPA deviated from these types of proximity, visibility, and ground disturbance restrictions for categories of deployments that present a low risk of an adverse effect on historic resources, such as deployments for replacement towers, tower enhancements, and facilities in rights-of-way and commercial properties. The Section 106 NPA adopted a

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[7] *Id.* at 12871.

[8] *Public Notice* at 3.

replacement tower exclusion that excludes from review the construction of a tower and associated excavation up to 30 feet from the existing site and in any access or utility easement, and a right-of-way exclusion that excludes from Section 106 review the construction of a tower, antennas, and associated equipment in or within 50 feet of an active right-of-way. Small cell facility deployments present a much lower risk of an adverse effect on historic resources than the construction of a tower and associated excavation and should similarly not be subjected to unjustified proximity, visibility, and ground disturbance restrictions to the application of additional Section 106 exclusions adopted as part of this program alternative.

These proximity, visibility, and ground disturbance restrictions are but one example of how straight application of principles from the NPAs could lead to unintended results that detract from the goals of this program alternative. AT&T encourages the Commission to scrutinize application of limiting conditions to the additional Section 106 exclusions and welcomes this opportunity to participate in this docket to assist the Commission, ACHP, and NCSHPO in this effort.

II. DISCUSSION

A. Additional amendments to the Collocation NPA.

AT&T supports the Commission's proposed amendments to the Collocation NPA that would further exclude certain small cell facility deployments from Section 106 review. The proposed exclusions would be mutually exclusive with existing Section 106 exclusions in the NPAs and as adopted in the *Infrastructure Order*, as they build upon, but are not dependent on, those existing exclusions. AT&T also agrees that the additional exclusions "would be complete exclusions from routine Section 106 processing, including any notification to SHPOs, Tribal

Nations, and NHOs."[9] Small cell facility deployments have benign impacts on both tribal and historic resources. AT&T proposes two other amendments to the Collocation NPA.

1. Exclude from Section 106 review replacement non-tower structures.

In WT Docket 13-238, AT&T explained that light and traffic poles, in particular, may require replacement to support small cell facilities due to greater height and wind loading. To address these situations, AT&T proposed exempting from Section 106 review replacement non-tower structures that are not a substantial increase in size over the original structure. AT&T emphasized the Commission's justification for adopting a replacement tower exclusion in the Section 106 NPA:

> Given the limitation of the exclusion to replacements that do not effectuate a substantial increase in size, it is highly unlikely that a replacement tower within the exclusion could have any impact other than on archeological properties. . . . We further conclude that the speculative benefits of exceptions to the exclusion for replacement towers located on historic properties or replacements for towers that may themselves be historic have not been shown to merit the costs of drafting and implementing such exceptions, including the time and resource costs of additional review by applicants.[10]

AT&T reiterates its observation that this rationale applies equally, if not more so, to replacement poles, as they are smaller with a correspondingly smaller footprint than a replacement tower. It is reasonable to amend the Collocation NPA to exclude from Section 106 review the installation of a replacement pole that is not a substantial increase in size from the original pole.

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[9] See *Public Notice* at 10.

[10] Comments of AT&T Services, Inc., WT Docket No. 13-238, WC Docket No. 11-59, WT Docket No. 13-32, at 13 (filed Feb. 3, 2014) (quoting from the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, *Report and Order,* WT Docket No. 03-128, 20 FCC Rcd 1073, 1090 ¶45 (2005) ("*Section 106 NPA Report & Order*")).

2. Exclude from Section 106 review small cell facilities that are camouflaged, not visible, or approved by local interests.

AT&T also proposes an additional exclusion for small cell facilities that are concealed via camouflage or placement where the supporting structure is not a historic property. Indirect effects from small cell facilities are almost exclusively visual. Small cell facility equipment that is camouflaged or not visible from streets or public spaces—e.g. installed in a shroud, other equipment or objects, or conduits on or within an existing structure—should be excluded from Section 106 review.

Moreover, all small cell facility equipment that is approved by a local jurisdiction or local historic commission should be excluded from Section 106 review, even if it is visible or exceeds the volumetric limits discussed below. The character and elements of a historic property or historic district are overwhelmingly local in nature and thus, local communities and local historic commissions are best suited to protect them. A local community or local historic commission's determination that a deployment is in keeping with the historic character and elements of a historic property or historic district should not be subject to contradiction by a SHPO or tribe, which likely does not have the benefit of a physical assessment of the area. These common sense rules are easy to apply, objective, and would avoid needless burdens for SHPOs, collocators, and tribes.

B. Small cell deployments not on historic properties or in or near historic districts.

The Commission proposes to amend the Collocation NPA to exclude from Section 106 review small cell facility deployments within a set volumetric limit on any structure if review is needed because the structure exceeds 45 years of age and the deployment involves no ground disturbance, is not on a historic property or in or near a historic district, and is not subject to a complaint. This proposed amendment expands the small cell facilities that can benefit from a

Section 106 exclusion beyond those deployed on utility structures to deployments on all manner of structures.

1. Apply the Section 106 exclusion to deployments on all manner of structures.

In the *Infrastructure Order*, the Commission recognized the minimal impact of small cell facilities that fit within certain volumetric limits, but limited the Section 106 exclusion to deployments on utility structures. AT&T supports adopting an additional exclusion for small cell facilities deployed on all types of structures, including poles used for lights, signs, and traffic lights. Many support structures in excess of 45 years of age that are not used for utilities have no historic character. They are just old. Yet, small cell deployments on those non-utility structures currently require Section 106 review. All small cell facilities meeting the volumetric limits have a negligible impact, regardless of the type of support structure or the other services or equipment the structure supports. Moreover, in terms of the scope of the impact, small cell facilities are often the least obtrusive and impactful equipment on a structure, as buildings often support water tanks, HVAC units, solar panels, and other equipment necessary to operate a structure, and utility structures may be extremely large and support transformers and other larger scale equipment.

2. Different volumetric limits apply to different types of support structures.

In the *Infrastructure Order*, the Commission adopted a volumetric limit of no more than three cubic feet for each antenna enclosure, six cubic feet for all antennas, and 17 cubic feet for all wireless equipment. AT&T supports applying these same volumetric limits to qualify for a Section 106 exclusion for small cell facility deployments on all poles—telephone, electric, light, traffic, signs, etc. Applying these volumetric limits to all pole deployments is objective, easy, and encourages pole deployments.

The Commission should adopt a different, larger volumetric limit for small cell facility deployments on non-pole structures. Poles are narrow and stand-alone, and thus, the small cell facility equipment they support is always visible, justifying a smaller volumetric limit. Non-pole support structures are much greater in size and volume and consequently, easily support one or more small cell facilities with the same or a lesser visual impact, even if the deployment exceeds the volumetric limits proposed above for poles. This difference in relative size supports application of higher volumetric limits for deployments on non-pole structures, such as a cumulative limit of 25 cubic feet.

The higher volumetric limits would give potential collocators substantial flexibility in deploying small cell facilities on non-pole structures, in different configurations, and to accommodate the as yet unknown volume that may be needed for 5th Generation ("5G") technologies. While it is too early to discern the size and volume of future network technologies, it should not be taken as a given that those technologies will lead to smaller small cell facility equipment volumes. Any reductions in 5G equipment size from advancements in technology will likely be offset, and possibly overtaken, by other network needs, such as support for multiple air interfaces and an increasingly wide range of frequencies (i.e. Cellular, PCS, AWS-1, AWS-3, WCS, 700 MHz, etc.).

In the *Infrastructure Order*, the Commission applied the volumetric limit cumulatively to all equipment deployed on the structure, with a few exceptions. The Commission should consider applying the volumetric limits to each set of antennas and associated equipment deployed on non-pole support structures that are not historic properties rather than cumulatively to all equipment on the structure. Water towers, buildings, stadiums, arenas, and other non-pole structures easily support multiple small cell attachments and applying a separate volumetric limit

for each set of antennas and associated equipment on those non-pole structures would not adversely affect the structure. The Collocation NPA excludes from Section 106 review the deployment of any antennas and associated equipment of size on buildings and other non-tower structures that are less than 45 years of age. In all instances, small cell facilities meeting the volumetric limit would have a substantially lesser impact than those macrocell collocations.

The small cell facility exclusion for deployments on utility structures adopted in the *Infrastructure Order* omits from the volumetric limit calculation vertical cable runs for the connection of power and other services, ancillary equipment installed by other entities that is outside of the applicant's ownership or control, and comparable equipment (e.g. cabling and ancillary equipment) from pre-existing wireless deployments. AT&T supports continuing to omit these items of equipment from the volumetric limit calculation. As with deployments on utility structures, these items of equipment are necessary for small cell facility deployments, present little additional impact, and may be out of the control of the collocator. AT&T also supports omitting from the volumetric limit calculation equipment that is not visible from adjacent streets or nearby public spaces, even if not camouflaged or hidden within the support structure or equipment or other objects on the support structure.

3. Ground disturbance in the right-of-way for small cell facilities minimally impacts archaeological resources.

Ground disturbance to electrically ground a small cell facility within a right-of-way should not restrict application of any new Section 106 exclusion because any impact to archaeological resources would be minimal to none. Every small cell facility must be electrically grounded to divert voltage into the earth, providing safety for workers, protecting equipment, and reducing interference to wireless communications. Collocators are sometimes able to tie into existing grounding, but just as often must provide their own ground, which involves shoveling or trenching

within two feet below grade and driving a ground rod up to 5/8" in diameter down to 8-10 feet below grade. If any ground disturbance into undisturbed soil or within two feet of the outer boundary of undisturbed soil prevents application of a Section 106 exclusion, then a small cell facility deployment requiring its own electrical ground would always require Section 106 review.

To avoid that result, AT&T proposes amending the Collocation NPA to exclude from Section 106 review grounding within these parameters—excavation within two feet below grade and driving of a ground rod up to 5/8" in diameter down to 10 feet below grade—for small cell facility deployments that fit within the volumetric limits and are located within a right-of-way. Within rights-of-way, the soil down to two feet below grade has been or will in the future be previously disturbed, whether from construction of adjacent roadways, sidewalks, and other public accommodations or from the placement of utilities and their support structures. Further, ground rods are directional and displace a very narrow cylinder of soil, creating minimal impact. Thus, disturbance of the soil for grounding is not likely to impact archaeological resources.

Indeed, the Commission, ACHP and NCSHPO have recognized that ground disturbance does not always cause an adverse effect. The Section 106 NPA excludes from Section 106 review excavation in previously undisturbed soil out to 30 feet from an existing site for a replacement tower and in any access and utility easements for that facility. In adopting that exclusion, the Commission stated:

> [T]he limitation on construction and excavation to within 30 feet of the existing leased or owned property means that only a minimal amount of previously undisturbed ground, if any, would be turned, and that would be very close to the existing construction. Balancing the small risk of new archeological disturbance against the benefits of encouraging replacement rather than the construction of new towers, and taking into account the requirement to cease work and provide notice in case of unanticipated discoveries, we

> conclude that an exclusion for replacement towers, limited to within 30 feet of the existing leased or owned boundary, is reasonable and appropriate.[11]

If excavation into *undisturbed soil and easements* for construction of a replacement tower presents only a "small risk of new archaeological disturbance," then grounding for a small cell facility in a right-of-way presents even less than a small risk. Moreover, the Section 106 NPA, which requires the cessation of work and notice if unanticipated discoveries occur, further reduces the likelihood of a significant disturbance to archaeological resources. Thus, it is reasonable and appropriate to exclude from Section 106 review excavation down to two feet below grade and ground rods down to 10 feet below grade within rights-of-way for small cell facility deployments covered by the volumetric limit.

For small cell facilities located within a right-of-way that require excavation more than two feet below grade and small cell facilities not located within a right-of-way, excavation within previously disturbed soil and driving of ground rods would still create little risk of a significant adverse impact and continue to be eligible for a Section 106 exclusion. A two foot buffer from the outer edge of previous ground disturbance is not necessary and is unsupported. Previously disturbed soil within two feet of the outer edge of an excavated area is no less disturbed than soil within three or four feet of that outer edge. Moreover, the need to cease work if unanticipated discoveries occur would continue to protect potential artifacts.

For the purposes of any additional Section 106 exclusion adopted as part of this program alternative, "right-of-way" should be defined to include any corridor designated by a Federal, State, Local or Tribal government for communications towers, above-ground or below-ground

[11] Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, *Report and Order,* WT Docket No. 03-128, 20 FCC Rcd 1073, 1090 ¶45 (2005) ("*Section 106 NPA Report & Order*").

utility transmission or distribution lines, or any associated structures and equipment. This definition recognizes the role of the right-of-way to facilitate services to the public and the expectations from the community that the right-of-way will be used for that purpose.

4. Proximity exemptions to the Section 106 exclusion are unnecessary.

Exempting from any Section 106 exclusion those small cell facilities that are deployed within 250 feet of a historic district is unnecessary, as deployments that meet the volumetric limits are, by definition, minimally visible. The 250 foot proximity restriction that originates in the Collocation NPA arose from concerns about macrocell deployments, not small cell facility deployments. Applying this proximity restriction is a blanket prohibition and fails to consider the potential effect of the facility on historic resources. Small cell facilities deployed near a historic district would in most, if not all, cases be minimally visible and either obscured or overshadowed by structures and visible artifacts, both inside and outside of the historic district, that have no historical significance, such as light and utility poles, traffic lights, utility boxes, billboards, and raised highways. Those few situations where an impact may occur would likely be of insufficient magnitude and frequency to justify maintaining a 250 foot distance exception to the exclusion in all cases.

Moreover, applying a blanket proximity restriction ignores the reality that SHPOs regularly approve small cell facility deployments in and near historic districts, in recognition of their minimal effect, and the Section 106 NPA already excludes from SHPO review the construction of towers, antennas, and associated equipment in and within 50 feet of an active right-of-way, even if adjacent to a historic district.[12] As the Commission concluded, "it

[12] *Section 106 NPA* at Stipulation III.E. AT&T advocates for applying a complete Section 106 exclusion to qualifying right-of-way deployments, as tribal interests would be no more impacted than historic properties or historic districts.

promotes historic preservation to encourage construction of such minimally intrusive facilities rather than larger, potentially more damaging structures."[13] If the placement of towers, antennas, and associated equipment in rights-of-way near historic districts does not adversely affect the district, then the same can be said of a small cell facility deployment near a historic district.[14]

C. Minimally visible small cell deployments on historic properties and in or near historic districts.

The Commission proposes amending the Collocation NPA to exclude from Section 106 review small cell facilities collocated on historic properties or in or near historic districts, subject to restrictions on their visibility from public streets or spaces, volumetric limits, no new ground disturbance, and safeguards on installations on historic properties. In recognition of the minimally visible and nonintrusive nature of small cell facilities, even when installed on historic properties and in or near historic districts, AT&T agrees with this proposed amendment to the Collocation NPA with modifications. This Section 106 exclusion would allow for continued compliance with the NHPA, while recognizing the reality that persons living, working, and playing in or near historic properties and historic districts also demand access to wireless broadband services, but are less likely to allow macrocell facilities in the area to provide those services.

1. Volumetric limits, not visibility, appropriately define the minimally intrusive nature of small cell facilities deployed in or near historic districts.

AT&T agrees with the Commission's proposal to limit application of this exclusion to small cell facility deployments meeting a volumetric limit, although, as discussed above, larger

[13] *Section 106 NPA Report & Order*, 20 FCC Rcd at 1098, ¶63.

[14] Even if a proximity restriction to application of an additional Section 106 exclusion is adopted, the restriction should apply only if the small cell facilities are visible from the historic district.

volumetric limits are warranted for installations on non-pole structures. Small cell facilities that fit within the volumetric limit are by definition already minimally visible and present no adverse effect. Thus, a separate visibility restriction to the exclusion is unwarranted and unneeded to protect historic resources. Preventing application of the Section 106 exclusion merely because equipment from the small cell facility equipment is visible also applies a blanket rule rather than considering the minimal effect of that equipment on historic properties and historic districts, contrary to the stated intention of the Section 106 Scoping Document to streamline review for small cell facilities that are "unlikely to have adverse effects on historic properties."[15] To ensure that only appropriate scrutiny is provided, the visibility of small cell facility equipment should not be used as a blanket exemption from the Section 106 exclusion.

SHPOs recognize that not all visual impacts are adverse and regularly approve small cell facilities within and near historic districts even though they are visible. By way of example, Crown Castle's installation of 14 small cell facilities on traffic signs and poles within the Vieux Carre' Historic District in the French Quarter of New Orleans was approved by the Louisiana Division of Archaeology (Louisiana SHPO) with a "no adverse effect on historic properties" finding[16] and by the Architectural Committee of the City of New Orleans Vieux Carre' Commission.[17] The following diagrams demonstrate the nature of the small cell facilities approved for installation within the Vieux Carre' Historic District.

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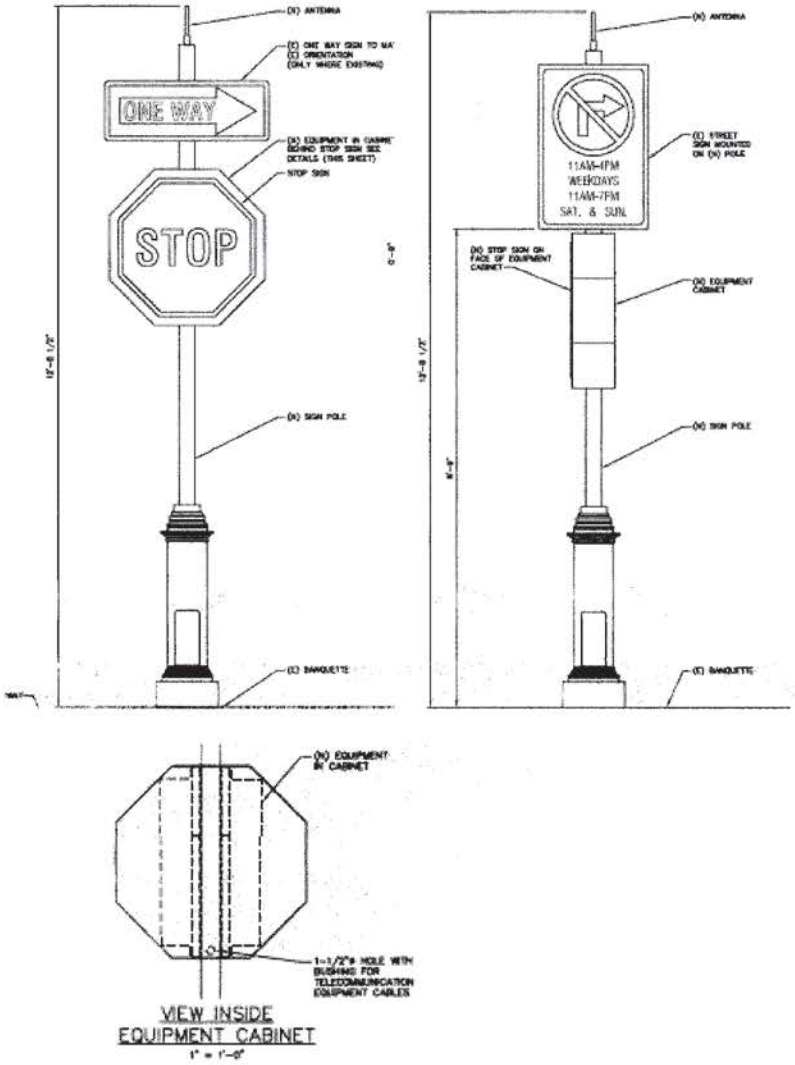
[15] *Public Notice* at 2.

[16] Letter from Kathryn Eisele and David Silver, Cardno ATC, to Pam Breaux, Louisiana Division of Archaeology, dated August 7, 2013, as stamped "no adverse effect on historic properties" by Pam Breaux dated August 16, 2013.

[17] Letter from Lary Hesdorffer, Vieux Carre' Commission, to Daniel Lund III, Shields Mott Lund, dated October 18, 2012.

Vieux Carre' Historic District Deployment

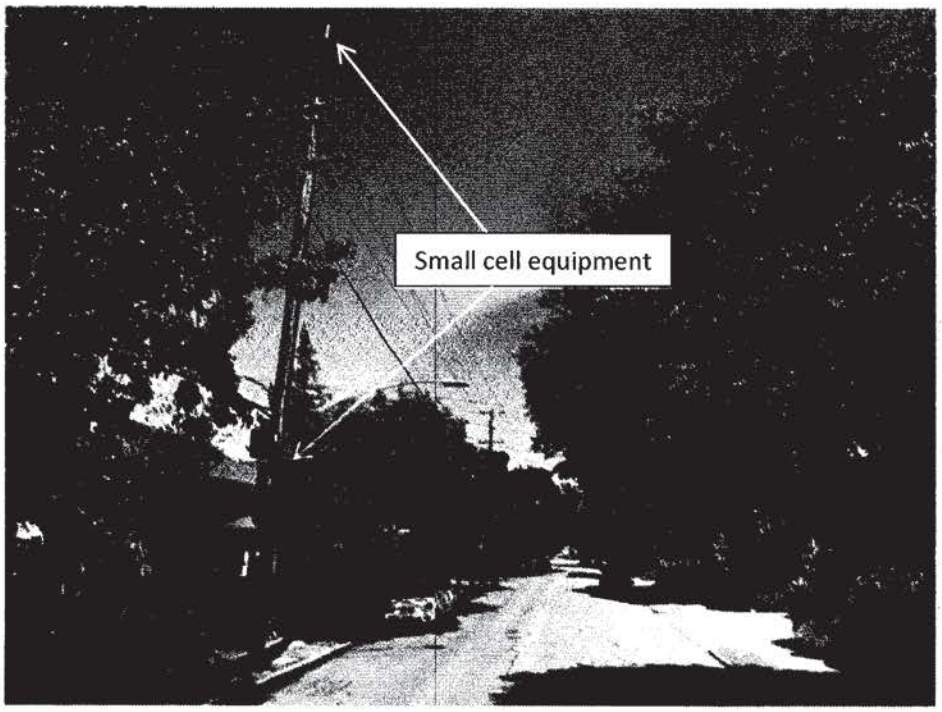


Similarly, AT&T's deployment of small cell facilities on 11 utility poles in Palo Alto, California, nine of which are over 45 years of age and four of which would be located within the Professorville Historic District, was approved by the California Office of Historic Preservation (California SHPO) with a "no effect on historic properties" finding.[18] The Palo Alto Architectural Review

[18] Letter from Milford Wayne Donaldson, California Office of Historic Preservation, to Dana Supernowicz, Historic Resources Associates, dated May 18, 2012.

Board likewise approved the deployment, finding that the "design is compatible with [uniform design or historical] character" and "conforms with policies that encourage quality development that is compatible with surrounding development and public spaces."[19] The following picture shows a small cell facility node deployed within the Professorville Historic District that fits within the 17 cubic feet volumetric limit.

Professorville Historic District Deployment



Rather than using visibility to automatically exempt otherwise qualifying small cell facilities that are located in or near a historic district from a Section 106 exclusion, AT&T proposes defining the scope of the exclusion by the volumetric limits of the facilities deployed, which by definition limits a facility's effect on nearby historic properties or historic districts without unnecessarily narrowing the scope of the exclusion based solely on one factor, visibility.

[19] Letter from Amy French, City of Palo Alto, to Minh Nguyen, AT&T Mobility LLC, dated December 16, 2011.

In contrast, small cell facilities meeting the volumetric limit that are located *on* historic properties and visible should be subject to Section 106 review unless installed on a portion of the property that is not a character-defining feature of the historic property which made it eligible for listing on the National Register of Historic Places. It is not unusual for historic properties to undergo renovations or additions that are not character-defining features. Visible small cell facility equipment locations on those renovated or added parts do not detract from the character-defining sections of the historic property and warrant an exclusion from Section 106 review if they meet the volumetric limit.

2. Ground disturbance within the right-of-way should not limit application of the Section 106 exclusion.

As explained above, excavation within two feet below grade and driving of ground rods down to 10 feet below grade for small cell facility deployments within a right-of-way should be excluded from Section 106 review. Electrical grounding is needed for all small cell facilities for public safety, equipment protection, and effective use of the facility. These grounding activities within a right-of-way present little risk of significant disturbance to archaeological resources. Also, the location of the ground disturbance in or near a historic district has no impact on nearby historic districts, which derive their historical character from historical or architectural elements rather than archeology.[20]

[20] For small cell facilities located within a right-of-way that require excavation more than two feet below grade and small cell facilities that are not located within a right-of-way, limiting application of the Section 106 exclusion to excavation within previously disturbed soil and driving of ground rods would continue to protect potential artifacts.

3. The Secretary of the Interior's Standards are vague and inapplicable to small cell facility installations.

Anticipating the potential for installations of small cell facilities on historic properties, the Commission solicits input on whether to condition a Section 106 exclusion for deployments on historic properties on compliance with the Secretary of the Interior's Standards. Applying Secretary of the Interior's Standards to deployments is not necessary and would be unnecessarily complex and confusing. The Secretary of the Interior's Standards actually consist of 4 sets of standards—preservation, rehabilitation, restoration, and reconstruction. Most of these standards are simply inapplicable to small cell facility installations. Further, these standards are general in nature, providing little objective guidance on how they should be applied. Instead, the volumetric limits inherently will maximize the preservation of historic properties. The minimal attachments that are necessary for small cell deployments would not be substantially different from many attachments already used on historic properties to attach utilities that are not subject to the same scrutiny as installations of wireless equipment.

If the Secretary of the Interior's Standards are to be used, they would be most effective as a guideline for how to deploy small cell facilities on historic properties. And, those guidelines should not include a blanket prohibition against the anchoring of antennas or associated equipment on the historic materials of the property or their "replacements-in-kind." As the Commission is well aware, no two small cell facility installations are alike and collocators require flexibility to design and install equipment in a myriad of configurations. In many cases, the installation design and manner of attachment are driven by the local community (including the property owner) and local historic preservation commission, which are in the best position to protect the integrity of those resources, including how equipment is attached.

And, to be sure, the local community and local historic preservation commission take an active role in ensuring the continued integrity of historic resources. Invalidating an exclusion from Section 106 review because a collocator follows the installation method required or recommended by the local community and local historic preservation commission should not automatically prevent application of the Section 106 exclusion. In fact, as discussed above, small cell facility deployments (including the method of attachment) approved by local community organizations or local historic preservation commissions should be excluded from Section 106 review. Thus, at most, the Secretary of the Interior Standards should merely inform as to appropriate designs for small cell facilities and the preferred methods to attach equipment.

4. An objective, simple to use method is needed to easily identify historic properties and historic districts.

Potential collocators seeking to apply a Section 106 exclusion for small cell facilities deployed on historic properties and in or near historic districts should not be required to undertake a field survey or other measures to identify those historic properties and historic districts other than reviewing records of official findings to discover the following: (a) properties listed in the National Register of Historic Places, (b) properties formally determined eligible for listing by the Keeper of the National Register of Historic Places, and (c) properties that a SHPO/THPO has certified has been nominated to the National Register. Those records should be available electronically. Identifying historic properties and historic districts can be a time consuming and costly process. Providing a simple and objective process for potential collocators reduces the administrative burdens, promotes consistent application, and eliminates disputes.

D. Additional deployments on historic properties or in or near historic districts.

Removing the visibility condition to the above Section 106 exclusion would simplify the exclusions for small cell facility deployments on historic properties and in or near historic districts,

and eliminate the need for this last proposal. Yet, if the Commission, ACHP, and NCSHPO seek to impose a visibility condition, AT&T supports an amendment of the Collocation NPA to exclude from Section 106 review small cell facilities installations located on all manner of non-historic poles and other structures in and within 50 feet of rights-of-way, including poles used for lights, signs, and traffic signals, even if small cell facility equipment is visible. Two factors limit the potential for these deployments to adversely affect historic resources. First, applying the volumetric limits ensures minimal visibility of any equipment that is deployed. Second, exempting from the exclusion installations on light posts and street lamps in historic districts that are themselves historic properties or integral to the character of the historic district ensures that deployments on those historic structures receive appropriate scrutiny.

As discussed above, an exclusion for small cell facility deployments within the rights-of-way recognizes the purpose of a right-of-way—to facilitate the provision of services to the public. AT&T supports an exclusion for small cell facilities that tracks the current right-of-way exclusion in the Section 106 NPA. In adopting that exclusion, the Commission opined:

> Due to the increasing usage of wireless services and advances in technology, providers of certain types of service are increasingly finding it feasible to utilize antennas mounted on short structures, often 50 feet or less in height, that resemble telephone or utility poles. Where such structures will be located near existing similar poles, we find that the likelihood of an incremental adverse impact on historic properties is minimal. Moreover, it promotes historic preservation to encourage construction of such minimally intrusive facilities rather than larger, potentially more damaging structures.[21]

These same factors apply within historic districts and support adoption of the exclusion for facilities located in or within 50 feet of any right-of-way for above-ground or below ground utilities. Moreover, these exclusions should exempt the installation from tribal review, as a small

[21] *Section 106 NPA Report & Order*, 20 FCC Rcd at 1098, ¶63.

cell facility deployment in a right-of-way is no more likely to impact tribal interests than it is to impact other historical resources.

Lastly, as explained above, a safe and operational small cell facility needs electrical grounding. Requiring Section 106 review in instances where ground disturbance for grounding occurs in the right-of-way—typically excavation down to two feet below grade and driving of ground rods—would subject collocators to unnecessary administrative burdens and delays for an activity that is unlikely to produce a risk of adverse effects on archaeological resources.

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Respectfully submitted,

Robert Vitanza
Linda Hood
Gary L. Phillips

AT&T Services, Inc.
208 S. Akard Street
Rm 2914
Dallas, Texas 75202
(214) 757-3357 (Phone)
(214) 746-2212 (Fax)