

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**In the Matter of** )  
 )  
**Petition for Expedited Rulemaking of** )  
**CTIA-The Wireless Association Et Al for** ) WT Docket No. 08-61  
**Amendment of Parts 1 and 17 of the FCC's** )  
**Rules Regarding Public Notice Procedures** )  
**For Processing Antenna Structure** )  
**Registration Applications** )

**COMMENTS**

United States Cellular Corporation ("USCC") hereby files its Comments on the above-captioned petition.<sup>1</sup> USCC is a national wireless company serving six million customers in 189 markets in 26 states. It has registered over 3,200 towers with the Federal Communications Commission ("FCC" or "Commission"). Thus, USCC has a large stake in any action the FCC may take regarding communications tower licensing policies.

**Introduction**

USCC strongly supports the proposals made by CTIA-The Wireless Association ("CTIA"), the National Association of Broadcasters ("NAB"), the National Association of Tower Erectors ("NATE") and PCIA-The Wireless Infrastructure Association ("PCIA") (collectively the "Infrastructure Coalition") in their Petition. The Infrastructure Coalition has proposed that the FCC commence a rulemaking proceeding which would "tentatively conclude" that the FCC's Rules should be revised to: (1) incorporate a notice, comment and approval process for antenna structure registration ("ASR") applications comparable to that used in processing license

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<sup>1</sup> See, Public Notice, "Wireless Telecommunications Bureau Seeks Comment on Petition For Expedited Rulemaking of CTIA. The Wireless Association, Et Al., For Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures For Processing Antenna Structure Registration Applications, DA-08-1078, released May 6, 2008.

transfers; and (2) clarify that any objection on environmental grounds filed against an ASR application must be filed as a petition to deny.

USCC agrees that it is essential that the Commission develop fair and reasonable ASR procedures in light of the recent order of the Court of Appeals.<sup>2</sup> For wireless carriers, the ability to build and license antenna structures is now and will remain crucial to fulfilling their service responsibilities to the public. Moreover, recent FCC actions, for example in the 700 MHz proceeding, with respect to increased licensee build out obligations<sup>3</sup> only make it more important that the FCC's rules permit towers to be constructed without undue delay and concomitant expense.

In this proceeding, the FCC should, in assessing its obligations under the National Environmental Policy Act, also bear in mind its primary responsibility under the Communications Act, namely:

"to make available, so far as possible, to the people of the United States... a rapid, efficient, Nation-wide and worldwide wire and radio communication service with adequate facilities at reasonable charges."

47 U.S.C. Section 151

#### **I. The FCC Should Adopt the Infrastructure Coalition's Proposed Filing Procedures.**

The Infrastructure Coalition proposes new procedures for processing ASR applications. See Petition, pp. 8-10, Attachment A. On balance, the procedures and deadlines proposed seem reasonable to USCC, though they too will certainly impose new delays in the process of tower construction. What USCC considers vital, however, notwithstanding whatever procedures are adopted, is that there be deadlines within which the FCC must act on both opposed and

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<sup>2</sup> American Bird Conservancy, nc. v. FCC, 516 F.3d 1027 (D.C. Cir. 2008) ("Remand Order").

<sup>3</sup> See, e.g., Section 27.14(g) of the FCC's Rules (requiring 700 MHz Economic Area licensees to cover 35 percent of the geographic area of their licensed service areas within four years of license grant and 70 percent by the end of the license term.)

unopposed ASR applications. In the past, it has been common for individual ASR applications opposed by environmental groups to remain for years in "pending" status. This has always been unacceptable and will become more so at a time when all ASR applications will be subject to public notice procedures. The FCC must deal with petitions to deny an ASR application within a reasonable time. We would propose six months from the date of filing. After that time, if the FCC failed to act, it would be in violation of its legal obligation. If no deadline is established, no matter what substantive environmental rules or policies are established by the FCC to protect migratory birds, those who object to all wireless towers will have been given an informal veto over the establishment and improvement of wireless networks.

Also, we believe it to be essential that unopposed ASR applications be automatically granted after a reasonable time has elapsed, especially if the FCC has not determined that additional information is necessary from the applicant. The time schedule identified at pages 8-9 of the Infrastructure Coalition's Petition seems acceptable, provided that a grant is automatic after some period of time, perhaps after the 81 days referred to in the Petition, assuming the FCC has not already granted the application.

Finally, USCC recommends that the FCC make clear that public notice will only be required for proposed antenna structures for which FAA notification and ASR filings are now required, that is, structures meeting the criteria of Section 17.7 of the FCC's Rules.

## **II. Objections To ASR Applications Must Meet The Petition To Deny Standard.**

USCC also concurs in the Infrastructure Coalition's recommendation (Petition, pp. 10-13) that the FCC reaffirm and make clear in its rules that any petition to deny an application on environmental grounds must be filed in accordance within Section 309(d) of the Act, and the procedural requirements of Section 1.939 of the FCC's Rules. Thus, such petitions would have

to demonstrate standing to file under the customary criteria explained in prior decisions, would have to be supported by affidavit, and would have to set forth specific allegations of fact sufficient to demonstrate that grant of the application would not be in the public interest.<sup>4</sup> Such requirements are vitally important, as otherwise the processing of all ASR applications could be blocked by blanket filings, which may assert generalized environmental objections expressing a view of environmental requirements different from that of the FCC.

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<sup>4</sup> See, Missouri RSA No. 7 Limited Partnership dba Mid-Missouri Cellular, 13 FCC Rcd 15390, 15396-97 (WTB 1998).

**Conclusion**

The Infrastructure Coalition, at pages 13-16 of its Petition, rightly stresses the close connections between infrastructure investment, the deployment of advanced telecommunications capability, and the necessity for reasonable standards for processing ASR applications. Wireless antenna structures are the indispensable building blocks of our national wireless network. For that network to flourish and fulfill the many demands, both public and private, which will be placed on it in the future, those building blocks must be allowed to be put in place, even as the FCC complies with its legal obligations under the NEPA. That is the large task before the FCC in this proceeding.

Respectfully submitted,

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