

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Petition for Declaratory Ruling to Clarify) WT Docket No. 08-165
Provisions of Section 332(c)(7)(B) to Ensure)
Timely Siting Review and to Preempt under)
Section 253 State and Local Ordinances that)
Classify All Wireless Siting Proposals as)
Requiring a Variance)

OPPOSITION TO MOTIONS FOR EXTENSION OF TIME

CTIA–The Wireless Association® (“CTIA”) hereby opposes the motions for extension of time filed in the above-captioned proceeding seeking a revised comment date of *November 12, 2008* and a reply comment date of *December 29, 2009*.¹ As CTIA’s Petition for Declaratory Ruling (“Petition”) observed, timely wireless facility siting is integral to key Commission priorities including broadband deployment, universal service, and public safety,² and the Commission should proceed without delay on this important and timely issue.

¹ See Montgomery County, Maryland, *Motion for Extension of Time*, WT Docket No. 08-165 (filed Aug 22, 2008) (“Montgomery County Motion”); *Motion of the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors to Extend the Time for Filing Comments and Reply Comments*, WT Docket No. 08-165 (filed Aug. 25, 2008); *Motion of the Greater Metro Telecommunications Association and Rainier Communications Commission to Extend the Time for Filing Comments and Reply Comments*, WT Docket No. 08-165 (filed Aug. 25, 2008).

² See CTIA–The Wireless Association®, *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, WT Docket 08-165 (filed July 11, 2008) (“Petition”).

CTIA filed its Petition on July 11, 2008, in large part asking the Commission to clarify relevant statutory terms in the Communications Act of 1934, as amended, (“Act”) in order to ensure that the federal interest in expeditious deployment of wireless service facilities is met. On August 14, 2008, the Wireless Telecommunications Bureau issued a public notice setting a comment date of September 15, 2008 and a reply comment date of September 30, 2008. The National Association of Telecommunications Officers and Advisors, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors (“Associations”) and, separately, Montgomery County, Maryland (“Montgomery County”) (collectively, “Movants”) seek to extend the date for initial comments from 30 days to 90 days, or until *November 12, 2008*, and the reply comment date from 15 days after initial comments to 45 days, or until *December 29, 2008*.

The comment dates established by the Commission provide ample time for interested parties to file comments, and as Section 1.46(a) of the Commission’s rules observes, “[i]t is the policy of the Commission that extensions of time shall not be routinely granted.”³ Movants have not provided persuasive reasoning to extend the public comment dates. The primary arguments presented – that public notice of the public comment dates was issued in the month of August when many local government professionals take vacations, that Labor Day occurs prior to the initial comment date, that some local elected officials may be attending the national political conventions, that a conference is scheduled during the comment period – do not warrant the extension request sought by Movants.

³ See 47 C.F.R. § 1.46(a); see also *M2Z Networks, Inc.*, Order, 22 FCC Rcd 6634 (WTB 2007) (denying CTIA motion for extension of public comment dates).

Fundamentally, the Petition seeks clarification of ambiguous terms in the Act, and CTIA has presented ample analysis of the legal issues involved, allowing interested parties to respond and warranting an FCC decision. Moreover, NATOA and the other movants are fully informed and engaged in the analysis of these legal issues through their participation in the U.S. Court of Appeals for the Sixth Circuit *Alliance Community Media v. FCC*⁴ case.⁵

Further, in footnote 4 of its Motion, Montgomery County calls for service of the Petition on governments or zoning authorities involved in the examples of wireless siting delays provided on pages 14-15 and 25-27 of the Petition.⁶ No such obligation applies to CTIA's Petition. Note 1 to Section 1.1206(a) involves service to state or local governments whose actions are specifically identified as a basis for requests for preemption or the subject of petitions under Section 332(c)(7)(B)(v). In contrast, the examples referenced by Montgomery County are specific to CTIA's request for a declaratory ruling to clarify the ambiguous terms in Section 332(c)(7)(B) and do not involve requests for preemption or filings under Section 332(c)(7)(B). Accordingly, there is no service requirement.⁷ Montgomery County alternatively contemplates that the Commission may ask CTIA for additional information at the initial stages of the declaratory ruling proceeding.⁸ CTIA would, of course, provide further information if requested,

⁴ 529 F.3d 763 (6th Cir. 2008).

⁵ See <http://www.natoa.org/2008/08/local-governments-and-media-or.html> (last visited August 26, 2008).

⁶ Montgomery County Motion at 3 n.4.

⁷ CTIA notes that a short section of the Petition, on pages 35-37, seeks preemption of any local ordinance or state law that subjects wireless siting applications to unique, burdensome requirements. See Petition at 35-37. Although this discussion was not referenced by movant, CTIA nonetheless has served the Petition on two localities out of an abundance of caution. This discussion, however, is not the primary focus of the Petition and in no way should this action form the basis for an extension of the public comment period.

⁸ Montgomery County Motion at 3.

but the Commission should retain the current public comment dates.⁹ This proceeding involves clarification of ambiguities in the Act and there is a pressing need for the Commission to provide certainty to advance the federal interest in a timely and more predictable wireless facilities siting process. The instant motions demonstrate that the Commission's Public Notice has, in fact, provided interested parties actual notice of CTIA's Petition.

For the foregoing reasons, the Commission should deny the motions to extend the public comment dates in the above-captioned proceeding.

Respectfully submitted,

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⁹ To the extent specific examples are provided in the initial comment round, there is ample time for all parties to respond on reply.

CERTIFICATE OF SERVICE

I, Brian Josef, hereby certify that a copy of the foregoing “Opposition to Motions for Extension of Time” was served August 26, 2008, by first-class U.S. mail and electronic mail on:

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