

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

In the Matter of )  
)  
Inquiry Concerning the Deployment of ) GN Docket Nos. 09-47 and 09-137  
Advanced Telecommunications Capability )  
to all Americans in a Reasonable and )  
Timely Fashion, and Possible Steps to )  
Accelerate Such Deployment Pursuant to )  
Section 706 of the Telecommunications Act )  
of 1996, as amended by the Broadband Data )  
Improvement Act )  
)  
A National Broadband Plan for Our Future ) GN Docket No. 09-51

To: The Commission

**COMMENTS – NBP Public Notice #7  
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”) provides these Comments to address certain aspects of NBP Public Notice #7 to urge the Commission to incorporate into its National Broadband Plan recommendations to expedite and streamline access to government-owned tower assets and rights-of-way.<sup>1</sup>

**Background**

WISPA was founded in 2004 and represents the interests of more than 300 wireless Internet service providers (“WISPs”), vendors, system integrators and others interested in promoting the growth and delivery of fixed wireless broadband services to Americans. WISPA estimates that more than 2,000 WISPs operate in the United States today. WISPA’s ongoing research reveals that WISPs cover more than 2,000,000 square

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<sup>1</sup> See Public Notice, “*Comment Sought on the Contribution of Federal, State, Tribal, and Local Government to Broadband*,” DA 09-2122, GN Docket Nos. 09-47, 09-51 and 09-137 (rel. Sept. 25, 2009) (“*Public Notice*”).

miles in all 50 states. Using primarily license-free frequencies authorized under Part 15 of the Commission's Rules, WISPs provide fixed wireless broadband services to more than 2,000,000 people in residences, businesses, hospitals, public safety locations and educational facilities. Many subscribers live in rural areas with little or no broadband access via DSL or cable. Other subscribers live in unserved "pockets" in urban areas that have been bypassed as "unprofitable" by wireline broadband providers. In urban areas where DSL and cable are available, WISPs provide an important diverse Internet access capability that typically remains in service when accidents, emergencies or weather extremes impair other Internet access networks.

In order to provide service, WISPs require access – access to spectrum,<sup>2</sup> access to middle mile and second mile transport facilities<sup>3</sup> and access to towers, government buildings and other vertical real estate. Too often, access to one or more of these network components is not readily available or is not affordable, and WISPs thus are unable to extend their networks to cover new areas. Because wired technologies such as FTTx, DSL and cable modem services are not available in these new areas – and may never be in light of the small and sparse population – fixed wireless is often the only means by which consumers in these areas can be served. However, if WISPs are unable to readily access tower assets, many consumers will continue to be denied or delayed in their ability

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<sup>2</sup> See Petition for Reconsideration of WISPA in ET Docket Nos. 04-186, 02-380 filed March 16, 2009 (urging changes to TV white space rules to promote efficient and economical service in rural areas); Comments of WISPA filed Oct. 23 in response to Public Notice, "*Comment Sought on Spectrum for Broadband*," DA 09-2100, GN Docket Nos. 09-47, 09-51 and 09-137 (rel. Sept. 23, 2009) (urging, among other things, allocation of more spectrum for fixed wireless, changes to operational rules to make existing allocations more suitable for fixed wireless and increased reliance on "licensed lite" spectrum allocation).

<sup>3</sup> See Comments of WISPA filed November 4, 2009 in response to Public Notice, "*Comment Sought on Impact of Middle and Second Mile Access on Broadband Availability and Deployment*," DA 09-2186, GN Docket Nos. 09-47, 09-51 and 09-137 (rel. Oct. 8, 2009) (recommending several initiatives to improve access to affordable transport facilities).

to obtain broadband service. As discussed in more detail below, in developing its National Broadband Plan, the Commission should include measures designed to expedite and improve access to government-owned towers and buildings, as well as to utility company poles.

### **Discussion**

The Commission seeks information and recommendations on how government assets can be better utilized to promote broadband deployment.<sup>4</sup> WISPA believes that the federal government can streamline the process by which the federal government can assist the private sector's ability to provide broadband service.

First, WISPA recommends that a single federal agency be placed in charge of leasing all towers, buildings, easements, conduits, ducts, right-of-ways and other assets owned by the government and available to broadband providers. Rather than having to identify which federal agency has authority over a particular property – Bureau of Land Management, Department of Transportation, General Services Administration, etc. – broadband providers would enjoy “one stop shopping” for government-owned broadband assets. If the government does not consolidate all of its leasable broadband assets under one agency, it should, at a minimum, establish a national database specifying pertinent information about the assets and identifying the responsible agency. The database would be easily accessible and searchable online, and would consolidate the myriad of databases that each separate agency may currently maintain.

Regardless of whether leasing is facilitated through one agency or many agencies, the government should develop a uniform process with standardized lease forms and

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<sup>4</sup> See *Public Notice* at 3.

milestones to add certainty to asset leasing. The milestones could include, where applicable, wind-load studies (for towers), environmental analyses, historic preservation and FAA approvals, and would establish specific timelines for other agencies to complete the interim tasks. In addition to vertical real estate, the database should identify government-owned ducts, conduit and rights-of-way – such as Interstate Highways – where fiber can be deployed for middle mile and second mile transport. This program also could be a model for states and local governments to adopt.

Second, the Commission should update its Antenna Survey Branch registry to identify all tower and rooftop assets available for leasing from any federal, state or local government, including those of less than 200 feet that are not currently required to be registered but which may be suitable for WISP access points. Like the national database of assets owned by the federal government, the FCC's database would contain key information such as the type of asset, location, height (if a tower or rooftop) and contact data for the federal staff in charge of that particular asset.

Third, as WISPA has previously urged, the Commission should ask Congress to amend Section 224 of the Communications Act to extend pole attachment rights to broadband providers so that they have the same rights and non-discriminatory pricing that are available to cable television systems and providers of telecommunications services.<sup>5</sup> Last July, the State of Vermont Public Service Board amended Rule 3.700 to permit wireless broadband providers to attach equipment to poles owned by utilities on the same terms and conditions as telecommunications providers, cable television providers, ILECs, CLECs and governmental entities. Each pole-owning utility is subject to a rental charge

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<sup>5</sup> See generally Comments of WISPA in *A National Broadband Plan for Our Future*, GN Docket No. 09-51, filed June 8, 2009, at 21.

formula that applies to all attaching entities. The intent of the rule amendment is to increase access and lower costs for WISPs and, although the rule is relatively new, it appears to be accomplishing its objectives.

Fourth, WISPA believes that governmental entities should adopt regulations that encourage private owners of towers, buildings, easements, conduits, ducts, right-of-ways and related facilities to make those assets more readily available for broadband services, as the Commission suggests.<sup>6</sup> For instance, states could give grants and loans for new tower construction to companies that agree to provide service to unserved or underserved areas or to make the new tower available to other broadband providers.

### **Conclusion**

WISPA believes that gaining easier and more affordable access to vertical real estate such as towers and rooftops and fiber routes will enable WISPs to more rapidly extend broadband service to rural, unserved and underserved areas, and encourages inclusion in the National Broadband Plan the recommendations proposed above.

Respectfully submitted,

**THE WIRELESS INTERNET  
SERVICE PROVIDERS ASSOCIATION**

November 6, 2009

By: */s/ Richard Harnish, President*  
*/s/ Jack Unger, Chair of FCC Committee*

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<sup>6</sup> See *Public Notice* at 3.