

City of Statesville

P. O. Box 1111 • Statesville, North Carolina 28677

November 11, 2009

Chairman Genachowski
Federal Communications Commission

Re: Proposed amendments to wireless telecommunications tower regulations

Chairman Genachowski,

The City of Statesville is opposed to the effort by the cell phone industry to hinder the regulatory zoning authority of local governments over wireless telecommunication (WTC) towers. It is our understanding from previous communications that the effort is essentially seeking to achieve four (4) goals:

1. Create a "shot clock" of 45 or 75 days for wireless antenna or tower zoning applications;
2. Rule that applications are automatically deemed granted if a local government misses the FCC's deadline;
3. Prevent localities from considering the presence of service by other carriers in evaluating an additional carrier's application for an antenna site; and
4. Preempt any local ordinance that would effectively require a variance for every tower application.

There are currently eleven wireless telecommunication towers located within the City of Statesville's jurisdiction. Over the past five years, the City of Statesville has received one new tower request and five co-location requests for existing facilities. The number of co-location requests (as opposed to the number of requests for new towers) within Statesville's jurisdiction, is evidence of the importance of a co-location investigation on the outset of every new request.

Last year the City was approached by a cell tower site developer, to develop a 290 feet tall cell tower at a site that is within the Airport Overlay Zone (more specifically approach path of Runway 28) of the Statesville Regional Airport. Fortunately, this section of our Zoning Ordinance has a stipulation in which new construction within this zone cannot negatively impact the Airport's instrument landing system (ILS). This stipulation

afforded the City time to research (through contact with the FAA) the proposal and it turned out that if the tower were approved as submitted (290 feet in height) the minimum descent altitude of Runway 28 would be raised several hundred feet, which in turn would not allow several of the Airport's tenants to land their aircraft at our facility any longer. Through this section of the Ordinance, the City required the developer to lower the height of the tower to a point where it would not affect the ILS.

It should also be pointed out that the City of Statesville zoning ordinance allows WTC towers in all zoning districts, except industrial. The towers are permitted by right as long as the zoning regulations are met and must receive approval of a site plan from a staff level. These regulations are not excessive or arbitrary by any means. The prescribed regulations (as most zoning regulations) are common among local governments throughout the state of North Carolina. It is our opinion that the regulation of WTC towers works on a local level and that the process is neither hindering nor drawn-out and that the FCC should not change the regulations regarding local zoning authority and cell towers.

This request (or a similar one) from the cell phone industry has come before the North Carolina State Legislature in the recent past. It was vehemently opposed by the City of Statesville then as it is now. The City of Statesville was very involved in the opposition at the State level and is more than willing to be involved at the federal level if need be.

Thank you for your time regarding this matter and please do not hesitate to let me know if I or my staff can be of further assistance. The City of Statesville is confident in its ability to effectively and fairly regulate WTC towers.

Sincerely,



Constantine Kütteh
Mayor, City of Statesville