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

In the Matter of)
)
2004 and 2006 Biennial Regulatory Reviews –) WT Docket No. 10-88
Streamlining and Other Revisions of Parts 1)
and 17 of the Commission’s Rules Governing)
Construction, Marking and Lighting of)
Antenna Structures)
)
Amendments to Modernize and Clarify Part 17) RM 11349
of the Commission’s Rules Concerning)
Construction, Marking and Lighting of)
Antenna Structures)

To: The Commission

COMMENTS OF PCIA – THE WIRELESS INFRASTRUCTURE ASSOCIATION

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SUMMARY

The Federal Communications Commission should take several actions to revise its Part 17 rules to enhance and improve opportunities for infrastructure deployment while preserving air safety goals. Specifically, the FCC should delete unnecessary provisions, clarify ambiguous rules, modernize standards to reflect technological advances, and harmonize with FAA rules.

First, the FCC should clarify and streamline the antenna structure registration process to provide consistency with FAA rules and requirements. The FCC's registration rule should cross reference the FAA notification requirements. However, the FCC should explicitly limit its registration rules to physical obstructions, regardless of any changes by the FAA to require notification for reasons unrelated to physical obstructions. In addition, the FCC should continue to defer to the FAA to set standards for the accuracy of site information and for survey methodology. The FCC should codify by rule what constitutes an alteration of an existing antenna structure that requires registration. Lastly, the FCC should continue to permit voluntary registration because it serves important public interest benefits, while taking steps to standardize the current *ad hoc* process.

Second, the FCC should delete references in its rules to outdated FAA Advisory Circulars. Instead, the rules should require compliance with FAA "no hazard" determinations, unless otherwise specified by the FCC in the antenna structure registration. Additionally, lighting and marking specifications should not retroactively change unless a new FAA study is required due to a height or coordinate alteration.

Third, the FCC should update and clarify its rules governing the maintenance of antenna structures. As a threshold matter, the rules governing the inspection of lights and associated equipment should be deleted. Technological and operational advances make the inspection rules obsolete, and removing them will promote innovation and air safety. Next, the FCC should encourage the FAA to ensure that NOTAMs do not self-extinguish. With respect to the timeframes for replacing or repairing lights, the FCC's rules should consistently require the replacement or repair to occur "as soon as practicable" to account for the numerous variables that affect lighting repairs and replacement. To eliminate the ambiguity in the current repainting rule, it should be amended to require painting and maintenance in compliance with the FAA Color Chart. In addition, owners of antenna structures should maintain outage records for two years and should be provided to the FCC upon request. Similarly, the unnecessary rules governing maintenance obligations already specified by the FAA "no hazard" determination and associated study should be deleted.

Finally, the FCC should take a number of additional steps to clarify and modernize the Part 17 rules and to enhance harmonization with FAA rules and procedures. The proposed definition of "antenna structure owner" should be revised to clearly exclude owners of non-tower structures over which the FCC lacks jurisdiction, and the two definitions of "antenna structure" should be reconciled. Further, the proposed rule for ASR Number posting requirements should be revised to be clear, simple, and consistent. The ASR distribution process should be updated to allow notifications through electronic means, which will reduce unnecessary costs to antenna structure owners while providing ASR data to tenant licensees more quickly and efficiently. Lastly, to achieve greater consistency with FAA practice, the FCC's notification procedures

should be harmonized with FAA practice to provide for notification within five days of completion or dismantlement of an antenna structure.

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COMMENTS OF PCIA – THE WIRELESS INFRASTRUCTURE ASSOCIATION

PCIA – The Wireless Infrastructure Association (“PCIA”) hereby submits these comments in response to the Notice of Proposed Rulemaking seeking comment on revisions to the Commission’s Part 17 rules governing the construction, marking and lighting of antenna structures.¹ As the principal trade association representing the wireless telecommunications infrastructure industry,² PCIA has a strong interest in the outcome of this proceeding. As described below, PCIA supports revising Part 17 to modernize, streamline and clarify the rules while ensuring the safety of air navigation.

¹ *Streamlining and Other Revisions of the Commission’s Rules Governing Construction, Marking and Lighting of Antenna Structures, Notice of Proposed Rulemaking*, 25 FCC Rcd 3982 (2010) (“Notice”).

² PCIA members include the carriers, infrastructure providers and professional services firms that own and manage more than 125,000 antenna structures and other telecommunications facilities throughout the world.

DISCUSSION

As the Commission is well aware, this is a critical time in the nation's history for infrastructure deployment. The Commission has recently auctioned spectrum in the AWS and 700 MHz bands and imposed some of the most aggressive buildout requirements in the FCC's history. The FCC and the Administration have also set ambitious goals to expand broadband deployment in the next five to ten years, and both the FCC and Congress are actively seeking ways to foster a nationwide, interoperable public safety network. All of these efforts will require substantial investments in infrastructure. Accordingly, the National Broadband Plan has called upon the FCC to take steps to "foster further infrastructure deployment" in order to "improve the business case for deploying and upgrading broadband network infrastructure."³

The FCC is taking steps to meet that challenge. It has already established reasonable timelines to speed review of antenna structure siting at the state and local level,⁴ and recently initiated a proceeding to improve access to poles and lower the cost of attachments.⁵ This proceeding presents another opportunity to remove barriers and improve investment opportunities for infrastructure deployment, while maintaining safety and regulatory oversight. It has been almost fifteen years since the FCC last revisited its rules governing antenna

³ National Broadband Plan, Chapter 6 at 109, *available at* <http://www.broadband.gov/plan/>; *see also* Prepared Remarks of FCC Chairman Julius Genachowski, FCC, "Mobile Broadband: A 21st Century Plan for U.S. Competitiveness, Innovation and Job Creation," Before the New America Foundation (Feb. 24, 2010) (discussing the Plan's "support for deployment of infrastructure enabling robust mobile broadband networks"), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296490A1.pdf.

⁴ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review*, WT Docket No. 08-165, *Declaratory Ruling*, 24 FCC Rcd 13994 (2009), *recon. and appeal pending*.

⁵ *See Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, WC Docket No. 07-245 & GN Docket No. 09-51, *Order and Further Notice of Proposed Rulemaking*, FCC 10-84 (rel. May 20, 2010).

structures, and four years since PCIA filed a petition for rulemaking that encouraged the FCC to commence a proceeding to update and modernize the Part 17 rules.⁶ Due to the substantial technological changes since that last review and the policy imperative to spur deployment, the FCC should move rapidly to evaluate the record and adopt revised rules.

The FCC can take a number of steps now to delete unnecessary rules, clarify ambiguity, and modernize the rules to reflect technological and operational advances. Specifically, the proposed changes would: (1) streamline the antenna structure registration process; (2) clarify compliance with lighting and marking specifications for individual antenna structures; (3) modernize the rules governing the maintenance of antenna structures; and (4) otherwise update the Part 17 rules, including harmonizing the rules with FAA practices. By taking these steps, the Commission can further enhance and improve opportunities for infrastructure deployment, while at the same time protecting the important air safety goals that are at the core of the Part 17 rules.

I. THE ANTENNA STRUCTURE REGISTRATION PROCESS SHOULD BE CLARIFIED AND STREAMLINED WHILE PRESERVING AIR SAFETY

There are a number of steps the FCC can take to clarify and streamline the antenna structure registration process for owners while balancing important air safety goals. The FCC should: (1) incorporate by reference the FAA rule governing when notice to the FAA is required, but make clear that it applies only in the case of physical (not radiofrequency) obstructions; (2) continue to defer to the FAA to set accuracy and survey standards with respect to site data; (3) clarify by rule which antenna structure changes require prior approval from the FAA and FCC; and (4) maintain but standardize the current *ad hoc* voluntary registration process.

⁶ See, e.g., PCIA, Petition for Rulemaking, RM-11349, at 5-11 (Sept. 12, 2006) (“PCIA Pet. for RM”).

A. The FCC Registration Rule Should Cross-Reference the FAA Notice Rule, but only for Physical Obstructions

Instead of restating in its rules when notice to the FAA is required and exempted,⁷ the FCC should simply cross-reference the applicable FAA rules in revised Section 17.4 with an important caveat: The proposed rule would need to limit FCC registration to those cases where an FAA *physical obstruction* standard is exceeded, as the current FAA rule requires.⁸ PCIA agrees that restatements of the FAA rules are otherwise duplicative and could create confusion in the event the FAA were to later change its notice criteria.

As background, these rules are important because any antenna structure that requires notice to the FAA must in turn be registered with the FCC prior to construction.⁹ Notification to the FAA is generally required if an antenna structure will physically penetrate an air safety zone, either because it will exceed 200 feet in height or its height will interfere with the approach or departure space of a nearby airport.¹⁰ However, as the Notice acknowledges,¹¹ the FAA has proposed in a pending rulemaking to expand the events that give rise to an FAA notification requirement to include *non-physical* attributes that may interfere with air navigation, including the addition of or changes to certain frequencies, increases in power or antenna height above certain thresholds, and changes in antenna configuration for facilities operating in certain frequency bands.¹² PCIA and others in the infrastructure, wireless, broadcast, and public safety

⁷ See 47 C.F.R. §§ 17.7, 17.14.

⁸ See Notice, 25 FCC Rcd at 3990 ¶ 18.

⁹ 47 C.F.R. § 17.4(a).

¹⁰ See 14 C.F.R. § 77.13.

¹¹ Notice, 25 FCC Rcd at 3991 ¶ 20.

¹² See *Safe, Efficient Use and Preservation of the Navigable Airspace, Notice of Proposed Rulemaking*, Docket No. FAA-2006-25002, 71 Fed. Reg. 34028 (June 13, 2006) (“FAA Notice”).

communities opposed these proposals as unjustified, excessively burdensome and/or outside the scope of the FAA's jurisdiction.¹³ The FCC also expressed strong reservations about the burdens of the proposal,¹⁴ and has previously questioned the FAA's jurisdiction to proceed alone in this area.¹⁵ The proposal remains pending before OMB.¹⁶

While it is true the FAA may ultimately adopt less burdensome notice rules or abandon them altogether,¹⁷ the FCC must ensure that its registration rules remain focused on *physical* obstructions that require marking and lighting to protect air safety, consistent with its mandate.¹⁸ Accordingly, PCIA recommends the following language be added to proposed Section 17.4 of the FCC's rules:

§ 17.4 Antenna structure registration. (a) The owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration (FAA) **because the structure would physically obstruct airspace** must register the structure with the Commission. (See 14 C.F.R. § 77.13 for FAA notification requirements.)¹⁹

¹³ See, e.g., Comments of PCIA – The Wireless Infrastructure Association, Docket No. FAA-2006-25002 (Sept. 11, 2006); Comments of CTIA – The Wireless Association®, Docket No. FAA-2006-25002 (Sept. 11, 2006); Comments of the National Association of Broadcasters, Docket No. FAA-2006-25002 (Sept. 11, 2006); Comments of the Association of Public-Safety Communications Officials-International, Inc., Docket No. FAA-2006-25002 (Sept. 7, 2006).

¹⁴ See Paperwork Reduction Act Comments of the Federal Communications Commission, Docket No. FAA-2006-25002 (Aug. 11, 2006).

¹⁵ See Comments of the Federal Communications Commission, FAA Docket No. 26305 (Dec. 31, 1990).

¹⁶ See Report on DOT Significant Rulemakings - June 2010, available at <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480afed10>.

¹⁷ See Notice, 25 FCC Rcd at 3991 ¶ 20 n.56.

¹⁸ Under Section 303(q) of the Communications Act, the FCC is charged with “require[ing] the painting and/or illumination of radio towers” that may constitute a “menace to air navigation.” 47 U.S.C. § 303(q).

¹⁹ Appendix A contains a compilation of PCIA-recommended edits to the proposed rules.

B. The FAA Should Continue to Set Accuracy and Survey Standards

The Notice seeks comment on whether to (1) require that height information provided on the FCC Form 854 (Application for Antenna Structure Registration) “be accurate within one foot” and coordinate data “be accurate within one second of longitude and latitude,” and (2) specify that the “most accurate data available” or a particular survey method be used to determine height and coordinate data.²⁰ PCIA recommends that the FCC continue to defer to the FAA on questions concerning the accuracy of site information and survey methodology.

As a threshold matter, the Commission should not require site data to be accurate within one foot vertically and one second horizontally. Such a requirement would be *more* restrictive in the vertical dimension than even the most precise survey accuracy required by the FAA: a “1A” survey, which requires accuracy only to within three feet (one meter).²¹ Moreover, while the FAA may require a 1A survey during the aeronautical study process, at other times it will require only a less precise a 2C survey, which requires vertical accuracy to within twenty feet.²² Nor does the FAA prescribe a particular survey methodology (maps, GPS receivers, tape drops, etc.) for all antenna structures in all cases.

Under these circumstances, it would make no sense for the FCC to adopt a “one-size-fits-all” accuracy or survey methodology, which could lead to differing levels of accuracy reported

²⁰ Notice, 25 FCC Rcd at 3990 ¶ 17.

²¹ See <https://oeaaa.faa.gov/oeaaa/external/content/surveyAccuracy.jsp> (visited Jun. 29, 2010) (FAA Survey Accuracy”). Such an accuracy requirement would also exceed the requirement currently in place under the FCC’s Part 101 rules, which require that the location of antenna sites be determined to an accuracy of no less than plus or minus one second in the horizontal dimensions (latitude and longitude) and plus or minus three feet (one meter) in the vertical dimension (ground elevation). See 47 C.F.R. §§ 101.21(e), 101.103(d)(2)(ii).

²² See FAA Survey Accuracy (“During the aeronautical study process, the FAA may request a certified survey with an accuracy of either 1A (+20 ft horizontally +3 ft vertically) or 2C (+50 ft horizontally +20 ft vertically).”).

for the same structure for FAA notification and FCC registration purposes. It could also lead to inconsistencies between FCC databases for the same tower. For example, if the height of an existing structure is increased and a new survey performed to different standards than the original, the coordinate data in the Antenna Structure Registration (“ASR”) database for the structure as modified may differ from that on file for microwave facilities at the same site whose height and operating parameters do not change. Either way, the result would be confusion rather than consistency, which would undermine rather than enhance the utility and reliability of antenna structure data across agencies and databases. Likewise, requiring the use of the “most accurate data available” is also ill-advised, as this is a subjective rather than objective standard. When it comes to air safety, clear, consistent requirements should be the goal.

For all these reasons, the FCC should continue to defer to the FAA’s expertise to set accuracy and survey standards for individual structures. As the Commission previously found, “the requirement that antenna structure owners first obtain an aeronautical study from the FAA insures reliability of the antenna structure site data and promotes air safety.... Because the FAA in the first instance determines whether an antenna structure poses a hazard to air navigation and recommends appropriate painting and lighting, we conclude that it is appropriate that the FAA – and not the FCC – specify the accuracy of site information that is necessary to make its determination.”²³

²³ *Streamlining the Commission’s Antenna Structure Clearance Procedure, Memorandum Opinion and Order and Order on Reconsideration*, 15 FCC Rcd 8676, 8678-79 ¶ 5 (2000).

C. The Rules Should Specify which Antenna Structure Changes Require Prior Approval from the FAA and FCC

Apart from accuracy standards, the Notice asks whether to add language to the Part 17 rules to “define what constitutes an alteration [of an existing antenna structure] such that a new registration is required.”²⁴ Specifically, the FCC notes that it previously determined in 1995 that “any change or correction of antenna structure site data of one second or greater in longitude or latitude, or one foot or greater in height, requires a new aeronautical study and a new determination by the FAA.”²⁵ The Notice asks whether to now specify in its rules that “any change in height of one foot or greater or any change in coordinates of one second or greater requires prior approval from the FAA and the Commission.”²⁶

PCIA generally supports the proposed codification of this long-standing policy in order to clearly define by rule what constitutes an alteration of an existing antenna structure that requires a new registration. Notably, however, the proposed text of the rule does not capture all of the nuances of the original policy – in particular, it does not reference *corrections* in data – nor is it tied specifically to structures that require registration. PCIA therefore recommends that the rule be adopted with the following changes:

§ 17.4 Antenna structure registration.

....

(d) Any change **or correction** in the overall height of one foot or greater or coordinates of one second or greater in longitude or latitude of an **registered** antenna structure requires prior approval from the FAA and **modification of the existing registration with** the Commission.

²⁴ Notice, 25 FCC Rcd at 3989 ¶ 16.

²⁵ *Id.* (citing *Streamlining the Commission’s Antenna Structure Clearance Procedure, Report and Order*, 11 FCC Rcd 4272, 4287 ¶ 35 (1995) (“ASR Streamlining Order”).)

²⁶ *Id.*

D. Voluntary Registration Should Be Permitted but Standardized

Under the FCC’s rules, only antenna structures that require notice to the FAA require registration with the FCC. When the FCC last revised its antenna structure rules in 1995, it stated that “the Commission will not register structures that do not meet the FAA notification criteria.”²⁷ The FCC reached this conclusion because “the record d[id] not show any significant benefits associated with the registration of antenna structures that do not meet the FAA notification criteria.”²⁸ In particular, the FCC found that “no safety concern has been brought before the Commission to warrant the registration of voluntarily lighted structures,” and doing so “would decrease speed of disposal for owners of structures that are required to be painted and lighted for air safety purposes.”²⁹

Nonetheless, antenna structure owners have continued to voluntarily register structures that do not require registration. Accordingly, the Notice asks whether to (1) clearly prohibit owners from registering antenna structures that do not require notice to the FAA, (2) enforce rules against voluntarily registered structures, and (3) require owners with registrations for towers that did not require registration to delete those registrations.³⁰ Because there are a number of valid reasons to voluntarily register a structure that does not require registration, and doing so does not practically burden the FCC, the Commission should continue to permit voluntary registration. PCIA recommends below, however, ways to improve the current *ad hoc* voluntary registration process.

²⁷ ASR Streamlining Order, 11 FCC Rcd at 4279 ¶ 13.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Notice, 25 FCC Rcd at 3998 ¶ 39.

Voluntary registration can serve a number of important public interest benefits. Antenna structure owners voluntarily register structures for a number of legitimate reasons. First, in some cases a state or locality will request or require that a structure that does not require notice to the FAA be voluntarily marked and lit for air safety purposes (such as a tower in a rural area, where crop dusters may fly at altitudes far below normal aviation flight paths prescribed by the FAA). In such cases, antenna structure owners are often unable to issue a NOTAM with the FAA in the event of a lighting malfunction unless the structure has been registered with the FCC. Second, antenna structure owners that need to file an environmental assessment (“EA”) for a proposed site that does not require registration may have no choice but to voluntarily register the structure in order to file the EA. While the Commission originally envisioned that EAs would be filed in this circumstance by a tenant licensee,³¹ in practice this is often not possible if the tower is built before licensees have been signed up to lease space on the tower or if licensees refuse to do so until the tower has been cleared of all environmental issues. Finally, there are also cases in which the FCC’s rules exempt a structure that is 20 feet or less in height from registration if it does not increase the height of another antenna structure,³² but the FAA nonetheless requires notification.³³ In such an instance, the proponent should also be able to register the structure with the FCC.

Because there are valid reasons to voluntarily register an antenna structure, including air safety, the Commission should not prohibit voluntary registration. Moreover, most antenna

³¹ See ASR Streamlining Order, 11 FCC Rcd at 4290 ¶ 42. This would be accomplished using FCC Form 601, which is for use only by licensees and applicants for licenses.

³² See 17 C.F.R. § 17.14(b). This is often called the “20-foot rule.”

³³ See Wireless Telecommunications Bureau, Fact Sheet No. 15, 1996 FCC LEXIS 2498 (May 1996) (“Fact Sheet No. 15) (“Antenna structures mounted on man-made structures,” Example F); see also <http://wireless.fcc.gov/antenna/index.htm?job=about> (visited Jun. 30, 2010) (same).

structure registration applications that are otherwise complete and do not involve environmental issues today are processed quickly through automated processing, so voluntary registration should impose only minimal additional burden on FCC staff or delay in the processing of required registrations.³⁴

Nor should the FCC enforce rules against voluntarily registered structures. Many structures have been bought and sold multiple times through the years and FAA flight paths and airports have changed, making it difficult to nearly impossible to determine which structures were voluntarily registered and why. For the same reason, antenna structure owners should not be required to identify and purge voluntarily registered structures from the FCC database, especially in the absence of any public safety reason for doing so.

Going forward, there are steps the FCC can take to bring greater rationality to the voluntarily registration process. For example, the FCC could add a question on its Form 854 asking whether the registration is voluntary and why it is needed (*e.g.*, (1) required by the FAA to issue a NOTAM for a voluntarily marked and lit tower; (2) necessary to submit an EA; or (3) other). To the extent the FCC wants to prohibit future voluntary registrations from being filed solely as a protective matter to address perceived liability concerns, it can do so by rule and in the instructions to the form. Taking these steps would allow the FCC to be able to query its database and exclude voluntarily registered towers should it need to do so at any point for informational or other purposes.

³⁴ Even where environment issues are presented, the time and resources needed to process the application should not differ materially whether raised in the context of an antenna structure registration application on Form 854 or a licensing application on Form 601.

II. RULES GOVERNING LIGHTING AND MARKING SPECIFICATIONS FOR INDIVIDUAL ANTENNA STRUCTURES SHOULD BE CLARIFIED

Among the FCC's most important statutory duties is to ensure antenna structures are properly painted and lit when they may pose a threat to air safety.³⁵ The current rules specifying which lighting and marking specifications an antenna structure owner should follow, however, are not as clear as they could be, which undermines air safety goals and retards investment in infrastructure. PCIA therefore supports deleting rule references to outdated FAA Advisory Circulars and making clear that antenna structure owners must comply with the lighting and marking specifications prescribed by the FAA, unless otherwise specified by the FCC. The FCC should also make clear that lighting and marking specifications will not change for a structure once prescribed, absent a change or correction in height or coordinates.

A. The Rules Should Require Compliance with FAA Determinations Rather than Outdated Advisory Circulars, Unless Otherwise Specified

The Notice proposes a number of changes to the Part 17 rules that will clarify the lighting and marking specifications. For example, the Notice proposes to delete any reference in Section 17.23 of the rules requiring compliance with particular FAA Advisory Circulars as unnecessary and potentially confusing, and instead require compliance with the structure's FAA determination and any other specifications prescribed by the FCC.³⁶ PCIA strongly supports this proposal.

³⁵ See 47 U.S.C. § 303(q).

³⁶ Notice, 25 FCC Rcd at 3998-99 ¶¶ 11, 14.

Advisory Circular references in Section 17.23 should be deleted.³⁷ As currently worded, Section 17.23 requires antenna structure to conform to the FAA’s painting and lighting recommendations set forth on the structure’s FAA determination of “no hazard,” as referenced in Advisory Circulars from 1995 and 1996. These Advisory Circulars have long since been superseded and continue to be revised periodically. As a result, the rule requires regular updating to remain current, which as a practical matter has not occurred. Yet, there is no need for the rule to reference the Advisory Circulars: each antenna structure owner is already notified of the specifications that apply to a particular structure through both the FAA “no hazard” determination and the FCC antenna structure registration.

The rules should simply require compliance with the marking and lighting recommended in the FAA determination, unless otherwise specified by the FCC in the antenna structure registration. While new proposed Section 17.4(c) makes this clear,³⁸ proposed Section 17.23 creates some ambiguity as to what governs in the event of conflict between the FAA determination and the FCC registration.³⁹ For the avoidance of doubt, PCIA suggests that the

³⁷ Relatedly, the Commission should delete the first sentence of Section 17.22 referencing Advisory Circulars, and redesignate the remainder of Section 17.22 as new Section 17.21(c). *See* Notice, 25 FCC Rcd at 3999 ¶ 14.

³⁸ Proposed Section 17.4(c) states: “Absent Commission specification, the painting and lighting specifications recommended by the FAA are mandatory However, the Commission may specify painting and/or lighting requirements for each antenna structure registration in addition to or different from those specified by the FAA.”

³⁹ Proposed Section 17.23 states: “Unless otherwise specified by the Commission, each new or altered antenna structure must conform to the FAA’s painting and lighting specifications set forth in the FAA’s final determination of ‘no hazard’ and the associated FAA study for that particular structure. For purposes of this part, any specifications, standards, and general requirements set forth by the FAA in the structure’s determination of ‘no hazard’ and the associated FAA study are mandatory. Additionally, each antenna structure must be painted and lighted in accordance with any painting and lighting requirements prescribed on the antenna

(continued on next page)

Commission revise the language in proposed Section 17.23 to conform to that used in proposed Section 17.4(c), which indicates that antenna structure owners should follow the FCC registration in the event of a conflict with the FAA determination.⁴⁰

Consistent with these changes that clarify *what* lighting and marking specifications to follow, the FCC should make corresponding changes to Section 17.21(a) that clarify *when* lighting and marking specifications apply. That is, the Commission should revise the rule to state that painting and lighting is required whenever required by the FAA “no hazard” determination, unless otherwise provided by the FCC. Specifically, PCIA proposes the following:

§ 17.21 Painting and lighting, when required.

Antenna structures shall be painted and lighted when: (a) ~~they exceed 60.96 meters (200 feet) in height above the ground or they require special aeronautical study~~ **required by the FAA determination of “no hazard,” unless otherwise specified by the Commission (see Section 17.21(b))....**

B. Lighting and Marking Specifications Should Not Change Unless Revised by the FAA Due to a Height or Coordinate Alteration

PCIA supports the creation of a new Section 17.24, which states that changes to painting or lighting criteria or airports will not impose new restrictions on existing structures.⁴¹ PCIA recommends that the rule be expanded, however, to include the logical corollary that previously

structure’s registration, or in accordance with any other specifications provided by the Commission.”

⁴⁰ This is nothing new. The Commission has long advised that “the owner must maintain painting and lighting in accordance with the specifications assigned to the structure at registration.” See http://wireless.fcc.gov/antenna/index.htm?job=documentation_paint_light (visited Jun. 30, 2010). Alternatively, instead of trying to reconcile two rules that basically say the same thing, the Commission could adopt a single rule dealing with the specifications for the lighting and marking of antenna structures that follows the proposed Section 17.4(c) model language.

⁴¹ See Notice, 25 FCC Rcd at 3989 ¶ 15 & n.42; proposed Section 17.24.

authorized antenna structures retain the lighting and marking specifications they were assigned upon registration unless the FAA recommends new specifications due to a change in height or coordinates or an error in originally submitted site data. PCIA suggests the following language:

§ 17.24 Existing structures.

No change to painting or lighting criteria or relocation of airports shall at any time impose a new restriction upon any then existing or authorized antenna structure or structures. **Previously authorized antenna structures shall retain their painting and lighting specifications assigned upon registration, unless a new FAA study is required due to a change or correction in structure height or coordinates.**

Revising the proposed rule as suggested is consistent with current FCC guidance on its web site, which states that “[t]he FCC will not change the required painting and/or lighting specifications for existing structures upon registration unless a new FAA study is required.”⁴² It is also consistent with the rule the FCC adopted for structures authorized prior to July 1996 (shortly after the last re-write of the Part 17 rules), which stated that such structures “may retain their present painting and lighting specifications, so long as the overall structure height or site coordinates do not change.”⁴³

The proposed clarification will provide certainty to antenna structure owners that the significant investments they make in lighting and marking upon registration will not be rendered moot by subsequent developments, such as updates to FAA Advisory Circulars, absent a change in site data that would require the FAA to re-study the site. For this reason, PCIA opposes the FCC’s alternative proposal “for the Commission to have the flexibility to apply any new

⁴² See http://wireless.fcc.gov/antenna/index.htm?job=documentation_paint_light (visited Jun. 30, 2010).

⁴³ See 47 C.F.R. § 17.17(a).

standards retroactively.”⁴⁴ Doing so could have a chilling effect on investment in new towers if owners and investors feared the potential for ongoing changes to lighting requirements, the cost of which could not be predicted. As discussed throughout these comments, revisions to the FCC’s rules should create certainty and clarity, not add ambiguity. Indeed, now more than ever, as the Agency and the Administration seek to facilitate broadband deployment, the Agency should focus on taking steps to facilitate not discourage infrastructure investment.⁴⁵

Nor is there any need for retroactive changes. The FAA only recommends marking and lighting specifications prior to construction and does not thereafter recommend updates to those specifications as its Advisory Circulars or flight paths change.⁴⁶ Accordingly, the Commission’s findings on this issue in 1995 remain equally appropriate today: “At present, the FAA recommends painting and lighting for antenna structures prior to construction only, and thereafter does not recommend periodic updates. We agree with the commenters that requiring owners to update painting and lighting requirements in accordance with Advisory Circulars would place significant new economic and administrative burdens on owners.”⁴⁷ For the same reason, the FCC should revise the proposed rule as suggested above and decline to pursue a retroactivity option.

III. THE RULES GOVERNING THE MAINTENANCE OF ANTENNA STRUCTURES SHOULD BE MODERNIZED AND CLARIFIED

In addition to clarifying which marking and lighting specifications apply to a given antenna structure, the FCC should also update and clarify its rules governing how antenna

⁴⁴ Notice, 25 FCC Rcd at 3988 ¶ 12.

⁴⁵ See *supra* note 3 and accompanying text.

⁴⁶ See generally 14 C.F.R. Part 77; FAA Advisory Circular AC 70/7460-1K, available at https://oeaaa.faa.gov/oeaaa/external/content/AC70_7460_1K.pdf.

⁴⁷ ASR Streamlining Order, 11 FCC Rcd at 4293 ¶ 49.

structures should be maintained. Notably, PCIA supports eliminating outdated and unnecessary monitoring requirements that can deter use of modern monitoring techniques that improve air safety. For air safety reasons, PCIA also recommends that the FCC work with the FAA to ensure that NOTAMs do not self-extinguish. Other steps the FCC should take include reconciling disparate light restoration timelines in its rules; using the FAA Color Chart to determine when a structure needs to be cleaned or repainted; clarifying that outage records should be maintained for two years; and deleting unnecessary rules governing maintenance obligations already specified by the FAA in its determination of “no hazard” for a given structure.

A. Outdated and Unnecessary Monitoring Requirements that Can Retard Use of Modern Monitoring Techniques Should Be Deleted

Section 17.47 of the FCC’s rules requires antenna structure owners to inspect the lights on their structures at least once daily (visually or through an alarm system), and to inspect associated control equipment (devices, indicators, and alarm systems) on a quarterly basis.⁴⁸ As PCIA and others have previously explained,⁴⁹ it has been decades since the Commission last re-examined its inspection requirements – particularly the quarterly inspection requirement. Since that time, modern monitoring technologies have been developed, tested and implemented that now allow lighting systems, control devices, indicators, and alarm systems to be automatically monitored in a near real-time, continuous fashion by NOC centers. These technologies have rendered the need for quarterly physical inspections obsolete, as the Commission has recognized

⁴⁸ 47 C.F.R. § 17.47.

⁴⁹ See, e.g., PCIA Pet. for RM at 5-11.

in a series of waivers permitting users of these technologies to inspect their towers on an annual basis.⁵⁰

Nonetheless, the rule remains in place and even where waivers have been granted, annual inspections are still required. These inspections cost tower owners millions of dollars each year – money that could be diverted to other beneficial uses, including upgrading more towers to these modern monitoring systems and expanding infrastructure deployment.⁵¹ Accordingly, PCIA petitioned the FCC to adopt a permanent solution, such as eliminating the quarterly inspection requirement for tower owners that utilize these advanced monitoring technologies.⁵² The Notice now seeks comment on this proposal, or whether it should simply delete the inspection rule altogether. As the Notice explains:

Eliminating the inspection requirements under Section 17.47 would make clear that what matters is that the lighting required under the antenna structure registration remains on, or, if required lights become extinguished, that the structure owner promptly request a NOTAM. If these requirements are not met, we may subject the structure owner to enforcement action regardless of the measures it followed to inspect its lighting and monitoring systems; and if these requirements are met, it would be immaterial to us how the structure owner ensured that its lights would remain functioning or NOTAMs would be requested.⁵³

⁵⁰ See Notice, 25 FCC Rcd at 3992-93 ¶¶ 23-24 & n.63 (citing waiver grants); *see also id.* at ¶ 25 (recognizing that certain systems using NOC center-based monitoring technologies “reliably diagnose problems, including any failures of control devices, indicators and alarm systems, within real time,” and therefore “quarterly inspections of such systems may unnecessarily burden antenna structure owners without promoting aircraft navigation safety”).

⁵¹ See PCIA Pet. for RM at 10; *see also* Notice, 25 FCC Rcd at 3992 ¶ 25 (noting that “relieving inspection requirements for such towers may encourage tower owners to adopt state-of-the-art systems”).

⁵² See PCIA Pet. for RM at 9-10.

⁵³ Notice, 25 FCC Rcd at 3993 ¶ 24.

PCIA agrees that the Commission should delete Section 17.47 in its entirety. Doing so achieves the goal of removing unnecessary and outdated requirements while avoiding the need to parse which monitoring technologies should or should not be exempted under the rule.⁵⁴ It also promotes innovation while maintaining air safety. As the Commission notes, owners must still ensure that their lights are maintained and, in the event out an outage, a NOTAM must be filed until lights are restored.⁵⁵ Clearly, owners will need to employ monitoring or inspection tools in order to detect outages and report problems so that solutions can be deployed. By eliminating the inspection rule, the FCC can get out of the business of specifying how to conduct inspections, allowing the market to develop and deploy what works best for a given owner or geography.

B. For Air Safety Reasons, the FCC Should Work with the FAA to Ensure that NOTAMs Do Not Self-Extinguish

The Notice asks whether the FCC should revise its NOTAM rule, Section 17.48, to require structure owners to affirmatively contact the FAA to extend a NOTAM after 15 days and provide a return to service date.⁵⁶ This proposal is based on the fact that the FAA currently automatically deletes NOTAMs from its system after 15 days unless extended.⁵⁷ While PCIA recognizes that the FCC is attempting to reconcile its rule with current FAA procedure, it respectfully suggests that the Commission encourage the FAA to revisit its policy of allowing NOTAMs to “self-extinguish,” in which case Section 17.48 should remain unaltered. Based on the experience of PCIA’s members, it is far better to have a NOTAM still in place after a return

⁵⁴ *E.g., id.* at 3993 ¶ 25 (seeking comment on “how the systems to be exempted from the quarterly inspection requirement should be defined” if the rule is retained).

⁵⁵ *See* 47 C.F.R. §§ 17.56 (requiring maintenance of lighting equipment), 17.48 (requiring notice to the FAA of extinguishment or improper functioning of lights).

⁵⁶ Notice, 25 FCC Rcd at 3994 ¶ 26.

⁵⁷ *See* FAA Advisory Circular AC-70/7460-1K, Chapter 2 (Light Failure Notification).

to service than to have even one case where a NOTAM inadvertently expires before the problem is corrected.⁵⁸

C. Disparate Light Restoration Timelines in the Rules Should Be Reconciled

Two different FCC rules address the timeframes for repairing and replacing lights. The primary rule, Section 17.56(a), is applicable to all lights; it states that replacing or repairing lights (as well as automatic indicators or automatic control or alarm systems) shall be accomplished “as soon as practicable.”⁵⁹ The secondary rule, Section 17.48(b), is applicable only to side-mounted lights; it states that while NOTAMs need not be filed for outages or improper functioning of side-lights, they should be corrected “as soon as possible.”⁶⁰ The Notice recognizes the inconsistency, and asks whether the two provisions should be deleted and replaced with a specific time limitation for lighting system repairs.⁶¹

PCIA supports retention of current rules, but recommends conforming both to use the same “as soon as practicable” language contained in the primary rule. As the Notice appears to recognize,⁶² there are far too many variables that influence how quickly lights can be repaired or replaced at a given antenna structure to permit the use of a bright-line time limitation. These include weather conditions (which can influence when it is safe to climb the tower), geographic location (some remote locations may take time to reach and are not accessible at all times of the

⁵⁸ The FCC also asks whether it should revise Section 17.48 to change the requirement that FAA be notified by “telephone or telegraph” of an outage to “means acceptable to the FAA.” Notice, 25 FCC Rcd at 3994 ¶ 26. PCIA supports this revision.

⁵⁹ 47 C.F.R. § 17.56(a).

⁶⁰ 47 C.F.R. § 17.48(b).

⁶¹ Notice, 25 FCC Rcd at 3004 ¶ 27.

⁶² *See id.* at ¶ 27 (asking whether weather conditions and geographic location should be taken into account in setting a reasonable time limitation for lighting repairs).

year), manpower/resources (which could be in short supply after a natural or manmade disaster), manufacturing supply (which can influence whether replacement bulbs are readily available, especially if there are a number of like failures following a disaster or significant weather event), and even environmental factors (such as the need to avoid endangered species which may be present at or near the tower during certain times of the year). By retaining the current “as soon as practicable” language, owners have sufficient flexibility to balance which of these factors apply at a given site while still being obligated to undertake corrective action within a reasonable and prudent timeframe.

D. The FAA Color Tolerance Chart Should Be Used to Determine when Repainting Is Required, Measured at the Base of the Structure

Section 17.50 should be amended to require use of the FAA’s In Service Aviation Orange Tolerance Chart (“FAA Color Chart”) to determine good visibility. The rule currently specifies that antenna structures requiring painting must be cleaned or repainted as often as necessary to “maintain good visibility.”⁶³ PCIA and others have previously argued that the Commission needs an unambiguous standard for measuring good visibility, and suggested that the Commission amend the rule to require that the paint on the structure be within the color tolerance depicted on the FAA Color Chart.⁶⁴ The Notice asks whether to require use of the FAA Color Chart for this purpose and, if so, whether to measure it against the base of the tower or from a distance of one-quarter mile.⁶⁵

⁶³ 47 C.F.R. § 17.50.

⁶⁴ See Notice, 25 FCC Rcd at 3996 ¶ 33 (citing 2004 Biennial Review comments of PCIA and others).

⁶⁵ Notice, 25 FCC Rcd at 3996-97 ¶¶ 34-35.

Based on the experience of its members since PCIA first proposed use of the FAA Color Chart in its 2004 Biennial Review comments, PCIA now recommends that the chart be measured against the base of the tower. In the experience of its members, the current rule lacks clarity and is subject to inconsistent interpretation and enforcement. The goal should be an objective standard against which compliance can be fairly gauged, which is achieved by requiring use of the chart as measured against the base of the tower. Indeed, this is the Enforcement Bureau's preferred practice, and is consistent with the instructions on the FAA Color Chart directing that it be placed "directly over the surface to be examined."⁶⁶ Holding up the chart at a distance of one-quarter mile introduces too much subjectivity, as the Notice acknowledges.⁶⁷ To the extent an FCC Field Office seeks to use the more subjective one-quarter mile measurement in a given case, the FCC must first give notice of the need to clean or repaint (*e.g.*, by issuing a "Cleaning/Repainting Notice") and an opportunity to cure before subjecting the antenna structure owner to any penalty.

E. Outage Records Should Be Maintained for Two Years

Section 17.49 requires owners of registered antenna structures to "maintain a record of any observed or otherwise known extinguishment or improper functioning of a structure light," but does not specify for how long.⁶⁸ The FCC proposes to amend this rule to require that such records be kept for two years and be provided to the Commission upon request.⁶⁹ PCIA supports this proposal, as another way to bring added clarity and certainty to the rules and remove a potential grey area that could lead to inconsistent rule enforcement.

⁶⁶ *Id.* at 3997 ¶ 35 (citing FAA Color Chart).

⁶⁷ *See id.* at 3996 ¶ 34.

⁶⁸ *See* 47 C.F.R. § 17.49.

⁶⁹ Notice, 25 FCC Rcd at 3996 ¶ 32.

F. Unnecessary Rules Governing Obligations Already Specified by the FAA Final Determination and Associated Study Should Be Deleted

Finally, the Notice proposes to delete a number of rules related to maintenance obligations which are already specified in the FAA determination of “no hazard” and associated study. These include: Section 17.45 (temporary warning lights), Section 17.51 (time when lights should be exhibited), and Section 17.56(b) (when to replace high intensity lighting flash tubes).⁷⁰ Because the relevant requirements are specified in the FAA determination and associated study for each tower, PCIA agrees that they are unnecessary and may create ambiguity, and therefore should be deleted.

IV. FURTHER CHANGES ARE NEEDED TO CLARIFY AND UPDATE PART 17 AND ENHANCE HARMONIZATION WITH FAA RULES

Finally, PCIA supports further changes to clarify and modernize the Part 17 rules and enhance harmonization with FAA procedures. Specifically, the FCC should clarify its antenna structure definitions and ASR Number posting requirements, update its ASR distribution process to reflect technological advances, and make its notification procedures more uniform and consistent with FAA practice.⁷¹

A. Antenna Structure Definitions Should Be Clarified and Harmonized

The FCC proposes to amend its definition of “antenna structure owner” in Section 17.2(c) to clarify that it is the owner of “the underlying structure that supports or is intended to support antennas and other appurtenances.”⁷² The change is proposed in order to better distinguish

⁷⁰ *Id.* at 3994-95 ¶¶ 28-30.

⁷¹ Although not discussed further below, PCIA also agrees that the Commission should eliminate the requirement in Section 17.58 that it be notified of facilities on Forest Service or BLM lands. *See* Notice, 25 FCC Rcd at 4001 ¶ 46. The rule was intended to promote compliance with procedures that no longer exist, and therefore is no longer needed.

⁷² Notice, 25 FCC Rcd at 3997 ¶ 37.

between antenna structure owners, who are responsible for registering antenna structures, and tenant licensees who may own antennas on the antenna structure and are not responsible for registration. PCIA supports the proposed change in concept, but notes that the proposed definition could inadvertently sweep owners of non-tower structures over which the FCC lacks jurisdiction (like buildings and bridges) into the definition as the owners of “structure[s] that support[] ... antennas and other appurtenances.”⁷³ PCIA recommends that the proposed language be revised as follows to avoid this result:

§ 17.2 Definitions.

....

(c) Antenna structure owner. For the purposes of this part, an antenna structure owner is the individual or entity vested with ownership, equitable ownership, dominion, or title to the underlying **antenna** structure that supports or is intended to support antennas and other appurtenances....⁷⁴

⁷³ The FCC has long stated that “an antenna structure could be a free standing structure, built specifically to support or act as an antenna, or it could be a structure mounted on some other man-made object (such as a building or bridge). In the latter case, note that the structure must be registered with the FCC, not the building or bridge. Objects such as buildings, observation towers, bridges, windmills, and water towers that DO NOT have an antenna mounted on them ARE NOT antenna structures and should not be registered. Keep in mind that the FCC only has jurisdiction over antenna structures, and thus, other objects that do not house antennas are not required to be registered with the FCC – regardless of their location or height.” See Fact Sheet No. 15; see also <http://wireless.fcc.gov/antenna/index.htm?job=about> (visited Jun. 30, 2010).

⁷⁴ Alternatively, the Commission could revise the proposed rule to read: “For the purposes of this part, an antenna structure owner is the individual or entity vested with ownership, equitable ownership, dominion, or title to the underlying structure that ~~supports or~~ is intended to support antennas and other appurtenances.” This is consistent with the FCC’s proposed revised definition of “antenna structure” in Section 17.2(a), which states that “antenna structure means a structure that is *constructed or used for the primary purpose of supporting antennas* to transmit and/or receive radio energy, and any antennas and other appurtenances mounted thereon” 47 C.F.R. § 17.2(a) (proposed) (emphasis added).

PCIA also agrees that the two definitions of “antenna structure” defined in Sections 1.907 and 17.2(a) of the Commission’s rules should be harmonized.⁷⁵

B. ASR Number Posting Requirements Should Be Clarified

Section 17.4(g) provides that the “Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure.”⁷⁶ PCIA has previously shown that this rule has been inconsistently applied due to tension between the requirement that the posting be “in a conspicuous place . . . that . . . is readily visible” but also “near the base,” and accordingly recommended that the FCC clarify the rule.⁷⁷ Recognizing the tension in the current rule, the FCC has proposed instead to require that the ASR Number be posted where visible to the public from “the closest publicly accessible location” near the base of tower (and if two or more such locations exist, to post it at each such location).⁷⁸ The actual text of the proposed rule is more complex, and does not include the “closest” qualifier found in the Notice:

[T]he Antenna Structure Registration Number must be displayed so that it is conspicuously visible and legible from the publicly accessible area nearest the base of the antenna structure along the publicly accessible roadway or path. If the base of the antenna structure has more than one point of ingress/egress, the Antenna Structure Registration Number must be posted at the publicly accessible area nearest each such point of ingress/egress.⁷⁹

While PCIA supports revising the existing rule, the proposed revision is still unclear and subject to varying interpretation, compounded by the inconsistency between the language in the

⁷⁵ Notice, 25 FCC Rcd at 3998 ¶ 38.

⁷⁶ 47 C.F.R. § 17.4(g).

⁷⁷ See PCIA Pet. for RM at 14-15.

⁷⁸ Notice, 25 FCC Rcd at 3999 ¶ 41.

⁷⁹ See 47 C.F.R. § 17.4(j) (proposed).

Notice and the text of the rule. By taking this opportunity to revise a rule that is currently unclear, the Commission should be mindful to avoid replacing one unclear rule with another. PCIA recommends making the standard clear and simple: if the antenna structure is surrounded by a perimeter fence, the ASR Number should be posted on the gate; if the antenna structure is not surrounded by a perimeter fence, the ASR Number should be posted at the base of the structure.

The Notice also asks how to address situations where two towers having separate ASR Numbers may be located within a single fenced area, as well as cases where an antenna structure is located on a building.⁸⁰ PCIA recommends that where two towers having separate ASR Numbers are located within a single fenced area, the ASR Numbers should be located at the base of each tower and on the gate. Where the antenna structure is located on a building, the ASR Number should be located at the base of the antenna structure. The following revisions to the proposed rule reflect these suggestions:

§ 17.4 Antenna structure registration.

....

(j) Except as described in paragraph (k) of this section, the Antenna Structure Registration Number must be displayed so that it is conspicuously visible and legible. **If the antenna structure is surrounded by a perimeter fence, the Antenna Structure Registration Number should be posted on the gate, unless prohibited by law or other restriction. Where two or more antenna structures having separate Antenna Structure Registration Numbers are located within a single fenced area, the Antenna Structure Registration Numbers should be posted on the gate and at the base of each antenna structure. In all other cases, the Antenna Structure Registration Number should be posted at the base of the antenna structure.** ~~from the publicly accessible area nearest the base of the antenna structure along the publicly accessible roadway or path. If the base of the~~

⁸⁰ Notice, 25 FCC Rcd at 3999 ¶ 41.

~~antenna structure has more than one point of ingress/egress, the Antenna Structure Registration Number must be posted at the publicly accessible area nearest each such point of ingress/egress. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen **where posted** at the base of the antenna structure or at a publicly accessible location.~~

C. The 854R Distribution Process Should Be Updated

The rules currently require antenna structure owners to “provide a copy of the Antenna Structure Registration (FCC Form 854R)” to “each tenant licensee and permittee.”⁸¹ PCIA previously demonstrated that the requirement to provide a paper copy of the Form 854R no longer serves any practical purpose now that anyone can obtain a reference copy of the ASR directly via the internet through the FCC’s ASR Online Systems.⁸² The FCC “agree[s] that antenna structure owners should no longer be required to provide paper copies of the Form 854R to their tenants, as the relevant information and access to the form can ordinarily be provided at least as effectively, and more economically, by electronic means.”⁸³ Accordingly, it proposes to amend the relevant rules to allow antenna structure owners to notify tenant licensees that a structure has been registered via electronic mail as an alternative to paper, by giving the tenant licensees the ASR Number along with the link for the Commission’s ASR website.⁸⁴ PCIA strongly supports this requirement, which will reduce unnecessary costs to tower owners while providing ASR data to tenant licensees more quickly and efficiently than before.

⁸¹ 47 C.F.R. §§ 17.4(e)-(f); *see also* § 17.6(c).

⁸² *See* PCIA Pet. for RM at 11-13; <http://wireless.fcc.gov/antenna/> (visited Jun. 30, 2010).

⁸³ Notice, 25 FCC Rcd at 4000 ¶ 43.

⁸⁴ *See id.*

D. Notification Procedures Should Be Made More Uniform and Consistent with FAA Practice

Section 17.57 requires the owner of an antenna structure for which an ASR Number has been obtained to notify the Commission “within 24 hours of completion of construction . . . and/or dismantlement.”⁸⁵ PCIA previously recommended that the FCC change this deadline to “within 5 days” of either event to achieve greater consistency with current FAA practice. The Notice tentatively concludes not to make this change, stating that “neither PCIA nor Cingular cites the relevant FAA requirements” to support the change.⁸⁶ In fact, PCIA demonstrated that Section 77.13(c) of the FAA’s rules, as well as FAA Form 7460-2, require “notification ‘within 5 days after that construction or alteration reaches its greatest height.’”⁸⁷

Accordingly, PCIA reiterates that the FCC’s rules should be revised to reflect the air safety expert agency’s judgment regarding notification intervals, and that Section 17.57 be harmonized with the FAA’s procedures to provide for notification within 5 days of completion or dismantlement. For internal consistency, and to avoid confusion, the related Section 17.57 requirement that a registrant notify the FCC “immediately” of any change in height or ownership should be revised to require notification within five days of the change. Harmonizing the FCC and FAA rules in this regard would put each regulatory agency on the same notification schedule. It would also help to streamline and simplify compliance efforts for antenna structure owners, resulting in more efficient practices with less room for error.

⁸⁵ 47 C.F.R. § 17.57.

⁸⁶ Notice, 25 FCC Rcd at 4000 ¶ 45.

⁸⁷ PCIA Pet. for RM at 17 (quoting 14 C.F.R. § 77.13(c) and citing FAA Form 7460-2 (7-98), Item 3(A)(3), available at <http://www.faa.gov/documentLibrary/media/form/faa7460-2.pdf>).

CONCLUSION

For the foregoing reasons, the Commission should revise its Part 17 rules as recommended herein.

Respectfully submitted,

PCIA – THE WIRELESS
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