

**Before the  
Federal Communications Commission  
Washington, DC 20554**

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

**Reply Comments of United States Cellular Corporation**

**Introduction and Summary**

United States Cellular Corporation ("USCC") hereby submits its Reply Comments on the issues raised in the above-captioned proceeding.<sup>1</sup> USCC agrees with comments filed by wireless carriers and trade associations in support of the FCC's efforts to modernize and update its Part 17 rules. We comment separately to underscore those points which we believe to be particularly important.

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<sup>1</sup> See, In the Matter of 2004 and 2006 Biennial Regulatory Reviews – 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 of the Communication's Rules Concerning Construction, Marking and Lighting of Antenna Structures, WT Docket No. 10-88; RM 11349, Notice of Proposed Rulemaking, FCC 10-53, released April 20, 2010 ("NPRM").

I. **The Antenna Structure Registration System Should be Modified But Not In A Way Which Makes It More Difficult To Construct And Register Wireless Antenna Structures**

A. **The FCC Registration Rule Should Cross Reference the FAA Notice Rule**

USCC joins in the consensus view among wireless carriers<sup>2</sup> in support of the NPRM's proposal (§11) that the FCC, instead of restating in its own rules when notice to the FAA is required, should simply cross reference the applicable FAA rules in Section 17.4 of the FCC's Rules. Thus, the FCC rules should drop all references to specific FAA "circulars," which may be obsolete or repealed. However, USCC agrees with Verizon Wireless that the FCC should not retroactively require any changes to antenna marking and lighting rules unless those changes have also been required for specific towers by the FAA.<sup>3</sup>

B. **The FCC Should Not Require Specific Accuracy Standards With Respect To Tower Height and Geographic Coordinates**

The NPRM (§16) sought comment on whether a new subsection should be added to Section 17.4 of the FCC's Rules, specifying that any change in height of one foot or greater or any change in geographic coordinates of one second or greater would require prior approval from the FAA and the FCC. The FCC approval would be obtained through the filing of a separate Form 854R. The Commission also asks (NPRM, §17) whether all information submitted on FCC Form 854R should be accurate within one foot and one second and whether the FCC should specify a specific survey standard to obtain the most accurate data available for antenna registrations.

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<sup>2</sup> See, e.g., Comments of PCIA in WT Docket No. 10-88, RM-11349, filed July 20, 2010 ("PCIA Comments"), p. 4; Comments of Verizon Wireless in WT Docket No 10-88, RM 11349, filed July 20, 2010 ("Verizon Wireless Comments"), p. 2; Comments of CTIA in Dockets No. 10-88, RM-11349, filed July 20, 2010 ("CTIA Comments"), p. 2.

<sup>3</sup> Verizon Wireless Comments, p. 3.

USCC does not object to the new 854R filing standard but agrees with PCIA that the FCC should not require site data to be accurate to within one foot and one second. Such a requirement would be more restrictive, at least with respect to height, than the most restrictive survey method required by the FAA.<sup>4</sup> That is a non-workable standard. We further agree with PCIA, CTIA, and Verizon Wireless that the FCC should not mandate a particular height and site coordinate survey method.<sup>5</sup> As a general matter, the FCC should accept the survey methods and accuracy criteria acceptable to the FAA and should not place carriers in a position of having to resurvey thousands of towers to meet an unrealistically strict standard.

## **II. The FCC Should Permit Carriers Voluntarily To Register Their Towers**

The NPRM (§39) requests comment on the important issue of whether carriers may continue to register antenna structures which need not be registered under the FCC's Rules. USCC agrees with those commenters who have pointed out that voluntary registration can provide important public interest benefits.<sup>6</sup> Voluntary registration may promote air safety and is sometimes necessary to comply with other FCC and FAA rules, for example those dealing with FCC approval of Environmental Assessments and FAA notifications.<sup>7</sup>

Thus, the FCC should permit voluntary registration, but under standardized rules and procedures,<sup>8</sup> including an item on the registration form by which antenna structure owners can notify the FCC that the registration is voluntary. However, USCC also agrees that voluntary registration should not subject carriers to all of the FCC's Part 17 requirements, most of which are properly applicable to only mandatorily registered towers.<sup>9</sup> In any case, if the FCC does

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<sup>4</sup> PCIA Comments, p 6.

<sup>5</sup> PCIA Comments, pp. 6-7; Verizon Wireless Comments, pp. 4-6.

<sup>6</sup> See, e.g., Comments of AT&T, Inc. in WT Docket 10-88 and RM 11349, filed July 20, 2010 ("AT&T Comments"), pp. 6-7; PCIA Comments, pp. 9-11; Verizon Wireless Comments, pp. 12-13.

<sup>7</sup> PCIA Comments, p. 10.

<sup>8</sup> PCIA Comments, p. 11; Verizon Wireless Comments, p. 13.

<sup>9</sup> PCIA Comments, p. 11.

require owners not to register towers which do not have to be registered, USCC urges the FCC not to require owners of voluntarily registered towers to have to remove them systematically from the FCC data base. Such a requirement would impose an unnecessary burden on wireless licensees, who would have to determine whether a past registration was voluntary or required, often decades after the tower was registered.<sup>10</sup>

### **III. The FCC Should Not Increase Owners Lighting and Marking Requirements**

PCIA and other commenters have recommended that the FCC clarify that previously authorized antenna structures should retain the marking and lighting specifications assigned upon their FCC registration unless the FAA orders new marking or lighting specifications for a specific tower due, for example, to a change in height or coordinates.<sup>11</sup> The FCC should clarify that tower owners will not automatically be required to make changes in the marking and lighting of antenna structures in the event for example, of general change in requirements described in FAA advisory "circulars."

### **IV. The FCC Should Repeal Section 17.47 of Its Rules**

In response to acquisition posed in the NPRM (§22), many commenters have requested that the FCC repeal Section 17.47 of the FCC's Rules, which requires antenna structure owners to inspect the lights on their antenna structures at least once daily and to inspect associated control equipment on a quarterly basis.<sup>12</sup> We agree. The quarterly monitoring and visual inspection requirements are outdated in the era of NOC monitoring of antenna systems, as are the annual inspections which have been required when the rule has been waived. We agree with PCIA that the inspection rule should be eliminated altogether, conditioned on the tower owner having the responsibility to maintain the appropriate lighting for its towers and to promptly

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<sup>10</sup> AT&T Comments, p. 7.

<sup>11</sup> PCIA Comments, p. 14.

<sup>12</sup> PCIA Comments, p. 17; Verizon Wireless Comments, p. 8.

report and then repair any outage. This places the responsibility where it should be, while avoiding the unnecessary and costly makework involved in redundant quarterly inspections.<sup>13</sup>

V. **The FCC Should Not Alter Its Outage Reporting Rules, But Should Encourage The FAA to Change Its NOTAM Rules**

The NPRM (§26) asks whether the FCC should revise its NOTAM rule, Section 17.48, to require structure owners to contact the FAA 15 days after they receive a NOTAM and provide a return to service date. This proposal is based on the fact that the FAA currently automatically deletes NOTAMs from their system after 15 days, unless the NOTAM is extended. Various commenters ask that the FCC urge the FAA to revisit its policy and not allow NOTAMs to "self extinguish."<sup>14</sup> We agree entirely that this rule change would save time and make sense. And we also agree that if that rule change is not made, carriers should keep notifying the FAA at prescribed intervals as long as their repairs are not yet completed and should notify the FAA when they are completed.

The NPRM (§27) also seeks comment on whether the FCC should alter the requirements in Section 17.56 and 17.48 of its Rules that lighting outages be repaired "as soon as practicable" and "as soon as possible." The NPRM recognizes the inconsistency in those rules and asks whether the two provisions should be deleted, and whether specific time limitations for making repairs should be added. We agree with the commenters who have opposed this proposal, because there is no practical way to determine in advance how long it will take to repair a given lighting outage. The tower owner should be permitted the timing flexibility necessary to complete the repair, of course, within reason, subject to enforcement action if a repair is unreasonably delayed.<sup>15</sup>

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<sup>13</sup> PCIA Comments, pp. 17-18.

<sup>14</sup> PCIA Comments, p. 19; Verizon Wireless Comments, p. 9.

<sup>15</sup> See, CTIA Comments, pp. 8-10; Verizon Wireless Comments, pp. 9-10.

The NPRM (§§ 33-35) also seeks comment on whether the FCC's rules should be made more specific with respect to the standards for the painting of towers. Section 17.50 of the FCC's Rules currently specifies that antenna structures requiring painting must be cleaned and painted as often as necessary to "maintain good visibility." The NPRM suggests that the FCC needs an unambiguous standard for measuring good visibility and has proposed that the FCC amend its rules to use the FAA standard. This involves a "color chart," called the "In Service Aviation Orange Tolerance Chart." The NPRM asks whether this chart should be used for this purpose, and if so, whether the tower's color should be measured at the base of the tower or from a distance of one quarter mile.

USCC has no objection to the use of this chart if it will bring about a more objective standard. We agree with PCIA that it would be better to measure the color on the tower from the base of the tower rather than from a distance of one quarter mile, as the latter vantage point would introduce too much subjectivity into the judgment.<sup>16</sup>

#### **VI. USCC Agrees With The Proposed Clarification of Antenna Structure "Owner"**

The NPRM (§36) proposes to amend the definition of antenna structure owner in Section 17.22 of the FCC's Rules to clarify that it is the owner of the underlying structure who is responsible for compliance and not owners of antennas and other "appurtenances." The change is proposed in order to distinguish between antenna structure owners, who are responsible for registering antenna structures and maintaining them in accordance with the Rules, and tenant licensees who may own antennas on the structure but are not primarily responsible for tower compliance. USCC supports this clarification in concept, but agrees with PCIA that the FCC

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<sup>16</sup> PCIA Comments, p. 22.

should make clear that its jurisdiction only extends to antenna structures, and not to the buildings, bridges, etc. which may have antenna structures mounted on them.<sup>17</sup>

#### **VII. ASR Numbers Should Be Posted At The Foot of Antenna Structures**

Section 17.4(g) of the Rules provides that an antenna structure registration number must be displayed in a "conspicuous place so that it is readily visible near the base of the antenna structure." This rule is not always possible to follow, as the base of a tower may not always be clearly visible to passersby, as from outside a perimeter fence for example. The NPRM (§§40-41) has proposed to require the ASR number be posted where visible to the public from "the closest publically accessible location" near the base of the tower and, if two or more if such locations exist, to post the number at each such location.

USCC agrees with CTIA that it would be simpler to require that if an antenna structure is surrounded by a perimeter fence, the ASR number should be posted on the gate to the fence and if the antenna structure is not surrounded by a perimeter fence, the ASR number should still be posted at the base of the structure,<sup>18</sup> or in some other conspicuous place at the discretion of the tower owner.

#### **VIII. USCC Agrees With The NPRM Regarding ASR Distribution To Tenant Licensees**

Section 17.4(f) of the FCC's Rules currently requires antenna structure owners to provide a copy of the antenna structure registration FCC Form 854R, to "each tenant licensee and permittee." The NPRM (§41) requests comment on whether this rule should be retained. This rule is a relic of a bygone age. We agree with these commenters who have urged the FCC to eliminate this requirement.<sup>19</sup> Antenna structure owners should be able to notify tenant licensees

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<sup>17</sup> PCIA Comments, p. 24.

<sup>18</sup> CTIA Comments, pp. 10-11.

<sup>19</sup> Verizon Wireless Comments, p. 5

of completed registrations via electronic mail, by giving the tenant licensees the ASR number along with a link to the FCC's ASR website.

**IX. FCC Notification Deadlines Should be Lengthened**

Section 17.57 now requires the owner of an antenna structure for which an ASR number has been obtained to notify the FCC within 24 hours of completion of construction and/or dismantlement of the structure. Current FAA practice requires that, when supplemental notice is required, this be done within five days of either event. The NPRM (§45) tentatively disagreed with making the FCC requirement conform to the FAA's requirement. However, USCC urges the FCC to adopt a consistent deadline.<sup>20</sup>

**CONCLUSION**

For the foregoing reasons, and those cited in the relevant comments, the FCC should take the actions requested to improve and clarify its Part 17 rules.

Respectfully submitted,

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<sup>20</sup> PCIA Comments, p. 28.