

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

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)	WT Docket No. 10-88
)	
Amendments to Modernize and Clarify Part 17 of the Commission’s Rules Concerning Construction, Marking and Lighting of Antenna Structures)	RM 11349
)	

**REPLY COMMENTS OF
PCIA—THE WIRELESS INFRASTRUCTURE ASSOCIATION**

PCIA—The Wireless Infrastructure Association (“PCIA”)¹ hereby submits these reply comments in the above captioned dockets regarding revisions to the Commission’s Part 17 rules governing the construction, marking and lighting of antenna structures.² The record in this proceeding demonstrates broad support for the revision of the Commission’s Part 17 rules, and for the proposed rules and modifications as suggested by PCIA.

I. THE COMMISSION SHOULD ACT EXPEDITIOUSLY TO ISSUE AN ORDER IMPLEMENTING THE PROPOSED RULES

The Commission is undertaking an unprecedented effort to spur the deployment of broadband over the next decade. Reducing burdens and barriers to infrastructure investment and deployment is integral to that effort.³ The Commission is examining everything from broad

¹ 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.

² *In re* 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 (rel. Apr. 20, 2010) (“Notice”).

³ *See* FCC, NATIONAL BROADBAND PLAN 109 (2010).

policy issues such as spectrum allocation to narrow issues such as its data collection efforts.⁴ By taking quick action in the instant proceeding, the Commission can reduce the regulatory compliance burden for antenna structure owners, while continuing to protect air safety. The proposed rules and the modifications recommended by PCIA achieve these joint goals.

Comments in response to the *Notice* demonstrate overwhelming support for the Commission's proposed rules, and for quick action to implement the rules. The Commission has not revised the rules in any substantial way for 15 years, and it has been four years since PCIA filed its original petition for rulemaking to encourage the FCC to initiate a proceeding to update its part 17 rules. The time has come for the Commission to take action.

In initial comments, some commenters urge the Commission to delay action until a pending rulemaking at the FAA regarding antenna structures has been resolved.⁵ The FAA issued its long-awaited final rule in the time between initial comments and reply comments, thereby making suggestions that the Commission delay action to allow the FAA to issue new rules moot.⁶

II. THE RECORD DEMONSTRATES BROAD SUPPORT FOR THE COMMISSION'S RULES, AS MODIFIED BY PCIA

Commenters overwhelmingly support many of the Commission's proposed rules in a manner consistent with PCIA's initial comments. Commenters include antenna support structure owners, tenants on antenna support structures, third-party network monitoring firms, and engineering and law firms. While parties disagree on some issues, PCIA believes that the record

⁴ See *In re* Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500MHz, and 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142, *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 10-126 (rel. July 15, 2010); Pleading Cycle Established for Comments on Review of Wireless Telecommunications Bureau Data Practices, WT Docket No. 10-131, *Public Notice*, DA 10-1223 (rel. June 29, 2010).

⁵ See Comments of Hatfield & Dawson, WT Docket No. 10-88, RM 11349, at 3 (July 20, 2010) ("Hatfield"); Comments of Hammet & Edison, WT Docket No. 10-88, RM 11349, at 1 (July 20, 2010).

⁶ Safe, Efficient Use and Preservation of the Navigable Airspace, Docket No. FAA-2006-25002, *Final Rule*, Amendment No. 77-13 (rel. July 21, 2010); 75 Fed. Reg. 42296 (July 21, 2010) ("*Final Rule*").

exists for the Commission to act expeditiously to modify and modernize its Part 17 rules, consistent with PCIA's recommendations.

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

The Commission should revise section 17.4 to cross-reference the FAA rules establishing when notice is required or exempted, but only for the FAA's *physical* obstruction rules. Commission rules require that a structure must be registered with the Commission if it requires notice to the FAA. This generally occurs when an antenna structure will physically penetrate an air safety zone because its height will exceed 200 feet above ground level, or its height will interfere with the approach or departure zone of a nearby airport.⁷

At the time the *Notice* was issued, the FAA had a pending rulemaking to determine whether it should broaden its notification requirements to include construction of new antenna support structures in certain frequency bands.⁸ The FAA has since issued its *Final Rule*, which determines that the proposal to require notification for facilities in certain frequency bands was "too broad."⁹

Nonetheless, the FAA continues to work with the FCC and NTIA to address the possible threat of "FM broadcast service transmissions operating the 88.0-107.9 MHz frequency bands."¹⁰ Regardless of the FAA's ultimate decision or any future action the FAA may take to require

⁷ In its comments, American Tower urges the "Commission and FAA [to] work together to assess the feasibility of increasing the 200-foot (60.96 meters) minimum antenna structure height threshold." Comments of American Tower, WT Docket No. 10-88, RM 11349, at 22 (July 20, 2010) ("ATC"). PCIA supports this proposal.

⁸ Safe, Efficient Use and Preservation of the Navigable Airspace, Docket No. FAA-2006-25002, *Notice of Proposed Rulemaking*, Notice No. 06-06 (rel. June 13, 2006); 71 Fed. Reg. 34028 (June 13, 2006).

⁹ *Final Rule* 42297.

¹⁰ *Id.*

notice for construction of facilities in certain frequency bands, commenters unanimously urge the Commission to require notice only for physical obstructions.¹¹

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

In the *Notice* the Commission sought comment on whether it should require Form 854 height data “be accurate within one foot” and coordinate data “be accurate within one second of longitude and latitude.”¹² The Commission’s justification mandating the accuracy requirement was to establish consistency between the site data changes that require a new determination by the FAA and the site data that must be reported to the FCC.¹³ While this was an effort “to clarify the obligations of antenna structure owners,”¹⁴ it would ultimately create more confusion.

In regards to the accuracy of site information, commenters largely agree that the FCC should continue to defer to the FAA for a variety of reasons.¹⁵ Even those commenters who support the Commission’s proposal for accuracy within one second of longitude and latitude agree that the one-foot accuracy standard for height is unworkable.¹⁶ As explained by PCIA in its initial comments, the Commission’s proposal would be “more restrictive in the vertical dimension than even the most precise survey accuracy required by the FAA.”¹⁷ Hatfield supports PCIA’s conclusion with the further rationale that “it would be mathematically nonsensical for the Commission to establish an accuracy requirement in units of feet, for use on a

¹¹Comments of AT&T, WT Docket No. 10-88, RM 11349, at 4-5 (July 20, 2010) (“AT&T”); Comments of CTIA—The Wireless Association, WT Docket No. 10-88, RM 11349, at 4-5 (July 20, 2010) (“CTIA”); Comments of Verizon Wireless, WT Docket No. 10-88, RM 11349, at 6-7 (July 20, 2010) (“Verizon”); Hatfield at 3; ATC at 10-12.

¹² *Notice* ¶ 17.

¹³ *Notice* ¶ 16.

¹⁴ *Notice* ¶ 16.

¹⁵ Comments of American Petroleum, WT Docket No. 10-88, RM 11349, at 4 (July 20, 2010) (“Petroleum”); ATC at 4-5; CTIA at 6; Hatfield at 2; AT&T at 3-4.

¹⁶ Petroleum at 4. Petroleum makes no argument why the Commission should set a new horizontal accuracy standard.

¹⁷ Comments of PCIA—The Wireless Infrastructure Association, WT Docket No. 10-88, RM 11349, at 6 (July 20, 2010) (“PCIA”).

form which requires that the height data be reported in units of meters.”¹⁸ AT&T also concludes that the Commission should defer to the FAA because “[i]f the FCC adopts specific accuracy requirements . . . it runs the risk that the FAA and FCC requirements would be different over time.”¹⁹ PCIA agrees with this statement that instead of leading to consistency amongst agencies, the FCC’s proposed changes could lead to discord in the future, which PCIA noted would lead to additional confusion instead of the clarity the Commission desires.²⁰

For many of the same reasons, commenters also agree that the Commission should avoid mandating any particular site survey methodology to avoid future conflict between the Commission and the FAA.²¹ Other valid reasons exist as well that prove there is not one measurement technology that provides more accurate results for all structures; the most accurate methodology may vary from structure to structure. As CTIA notes, “[a] variety of surveying techniques may be used at a single tower site, allowing the surveyor to overcome constraints that may be associated with a single surveying methodology, and thus provide more accurate results.”²² American Tower supports this view, explaining that “ATC’s experience indicates no single methodology or single type of available equipment provides the most accurate measures for all locations.”²³ Given the wide range of situation-appropriate solutions, PCIA believes the Commission should continue to defer to the FAA to set accuracy and survey standards and structure owners should be free to choose the survey methodology that result in the appropriate level of accuracy.

¹⁸ Hatfield at 2.

¹⁹ AT&T at 4.

²⁰ PCIA at 7.

²¹ See AT&T at 4; PCIA at 6-7.

²² CTIA at 7.

²³ ATC at 5.

C. The Commission Should Permit Voluntary Registration

The record in this proceeding demonstrates that there are public benefits to continuing to allow voluntary antenna structure registrations.²⁴ Additionally, because these registrations are voluntary—they are not required by the federal government as a matter of air safety—there is no need to apply the Commission’s marking and lighting rules. The Commission should continue to allow voluntary registrations, and refrain from enforcing rules against voluntarily registered structures.

Voluntary registrations serve several purposes that both serve the public interest and lead to administrative efficiency. Verizon notes that these registrations are sometimes necessary “where required by state or local jurisdiction, or by contract, or where registration is the most appropriate vehicle to fulfill some other purpose, such as compliance with the Commission’s environmental rules.”²⁵ This argument is directly on track with that of both PCIA and NTCA.²⁶ Further, as Hatfield points out, “Such registrations have been very helpful to the industry, by facilitating the identification of existing tower structures and their owners, when seeking a location to install a new antenna.”²⁷ Accordingly, the benefits of voluntary registration are clear and lead to increased efficiency in infrastructure deployment.

The natural corollary to continuing to allow for voluntary registration is that the Commission should not require filers to purge the ASR database of existing voluntary registrations. As described above, there are numerous valid reasons for voluntary registrations and the benefits of voluntary registration far outweigh the costs. As Hatfield explains, “[t]he

²⁴ Comments of National Association of Broadcasters, WT Docket No. 10-88, RM 11349, at 6-7 (July 20, 2010); Comments of National Telecommunications Cooperative Association, WT Docket No. 10-88, RM 11349, at 9 (July 20, 2010) (“NTCA”); Verizon at 12; Hatfield at 3; AT&T at 6; Petroleum at 7.

²⁵ Verizon at 12.

²⁶ PCIA at 9-11; NTCA at 9.

²⁷ Hatfield at 3.

incremental cost to the Commission of maintaining these voluntary registrations in the ASR database is limited to the cost of a few kilobytes of data storage, and is likely far less than the cost of policing the database to keep out ‘unnecessary’ registrations.”²⁸ Given the significant burden that removing voluntary registrations from the system would place on the future of infrastructure deployment and the lack of benefits to removing them, PCIA urges the Commission to continue to accept voluntary registrations and maintain its current ASR database.

Should the Commission decide to streamline its voluntary registration process, PCIA provided in its comments a practical and efficient manner for doing so through a few simple changes to Form 854.²⁹ Such changes would not only provide a streamlined process, but also allow the Commission and other ASR database users to eliminate voluntarily registered structures from a query on a going forward basis, leading to more efficient search results.

D. Outdated Monitoring Requirements Should be Deleted

The Commission has not reexamined its antenna structure monitoring rules in decades. The current monitoring rules require structure owners to inspect lights daily and to inspect associated control equipment on a quarterly basis. Many antenna structure owners now employ modern monitoring technologies that allow lighting systems, control devices, indicators, and alarm systems to be automatically monitored in near real-time by network operations centers (“NOCs”). The Commission, through granting numerous waivers, recognizes that NOCs make the monitoring and inspection requirements unnecessary. As such, the Commission has tentatively concluded that the monitoring and inspection rule should be deleted regardless of the monitoring system used because the rule is made superfluous by the Commission’s existing

²⁸ Hatfield at 3.

²⁹ PCIA at 11.

enforcement regulations. AT&T agrees with both the Commission and PCIA,³⁰ stating that “what matters is that the lighting required under the antenna structure registration remains on, or if the lights are extinguished, the tower owner promptly request a NOTAM from the FAA.”³¹

While some commenters argue that the Commission should maintain the rule and fully exempt only certain antenna structure owners that have installed network monitoring systems that meet certain specifications, this is an unnecessary step because the rules are simply redundant. The rules already require antenna structure owners to request a NOTAM from the FAA when a light is extinguished. This rule puts antenna structure owners on notice that they are required, under federal rules, to monitor their lighting systems. The FCC does not need to impose an arbitrary monitoring requirement on antenna structure owners to ensure that they comply with the rules; the responsibility of the structure owner to report an outage is clear regardless of the monitoring schedule.

Should the Commission decide that it will only exempt those using NOCs from its quarterly inspection requirement, it should not take the position of requiring certain standards of the NOC. TowerSentry, LLC, for example asks the Commission to adopt a list of NOC operational requirements in order for the waiver to be granted.³² Not surprisingly, these proposed requirements are apparently based on the standards TowerSentry already uses,³³ the adoption of which would give it a competitive advantage over other NOCs who may require procedural changes in order to comply with the suggested requirements. The Commission should not adopt rules that declare regulatory winners and losers.

³⁰ PCIA at 17-19.

³¹ AT&T at 5.

³² *See generally*, Comments of TowerSentry, LLC, WT Docket No. 10-88, RM 11349, at 6-7 (July 20, 2010) (“TowerSentry”).

³³ *Id.* at 1.

Further, allowing waivers only for monitoring systems that meet certain criteria puts the Commission in the position of determining the technological characteristics of the system. Many antenna structure owners already have in place extensive and highly effective monitoring networks, and requiring that these networks meet certain specifications may require significant compliance expense. Also, the Commission issued the *Notice* in an effort to update and modernize its lighting and monitoring rules; if it picks certain technological specifications, it may have to continually revisit the rules to ensure that the rules reflect technological changes. For these reasons, the Commission should eliminate the monitoring and inspection rule in its entirety; at a minimum should not develop specific operational NOC requirements as TowerSentry requests.

III. CONCLUSION

For the foregoing reasons, we respectfully request that the Commission to act expeditiously to revise its part 17 rules as recommended herein.

Respectfully submitted,

PCIA – THE WIRELESS
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