

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

In the Matter of Acceleration of Broadband  
Deployment Expanding the Reach and Reducing  
the Cost of Broadband Deployment by Improving  
Policies Regarding Public Rights of Way and  
Wireless Facilities Siting

WC Docket No. 11-59

**REPLY COMMENTS OF MONTGOMERY COUNTY, MARYLAND**

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## SUMMARY

The Commission launched this Notice of Inquiry proceeding (NOI) to gain a better understanding of local rights-of-way and wireless facilities siting policies – as “a necessary step towards determining whether there is a need for coordinated national action to improve rights-of-way and wireless facilities siting policies, and, if so, what role the Commission should play in conjunction with other stakeholders.” The Commission rightly recognized that it should act only if and to the extent the facts support a need for action.

The local governments and industry have responded to the NOI. National associations representing local government interests provided studies and statistical data demonstrating that local government regulation does not hinder, but rather promotes deployment of broadband. Montgomery County and other individual communities provided data at the local level that was consistent with and supported the national associations’ findings.

The industry comments, by contrast, called for Commission action but utterly failed to demonstrate the need. Not one industry commenter filed any statistical analysis of any sort to back claims that local government rights of way and wireless facilities siting policies are systematically hindering broadband deployment. Industry provided a few hundred anecdotes as “evidence” to support their call to action and (even if every allegation were accepted by true) those numbers are simply insignificant in comparison to more than 253,086 wireless facilities and hundreds of thousands of miles of wireline facilities in service. Montgomery County respectfully requests that the Commission request the same level of detailed analysis from industry and close this proceeding if such information is not provided.

Moreover, there is reason to seriously question the extent to which industry allegations are meaningful or accurate. The allegation against the County, for example, was that it uses “problematic consultants” – a claim that is lacking in substance and ironic given the widespread

use of consultants by industry, and the County's own experience that delays in processing applications are principally caused by the industry applicants themselves. In its Reply Comments, the County presents further evidence to demonstrate why local governments may employ consultants as a more cost-effective and efficient means to handle fluctuating application volume. This same data also demonstrates the problem with broad application of shot clocks: the Commission's shot clock requires the County to be able to respond to a volume of applications that may vary from zero over six weeks, to four per week, to forty applications in a single week, all within the same time frame.

In short, the record does not support a need for Commission action. The logical next step, and one that the County urges the Commission to take, is to close this docket and take no further actions adverse to local governments. The general public would be better served by the Commission focusing its scarce resources on completing other open proceedings that will speed broadband deployment and increase broadband adoption. Likewise, local governments should be allowed to focus their scarce resources on serving their communities, not responding to spurious attacks by the communications industry.

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**REPLY COMMENTS OF MONTGOMERY COUNTY, MARYLAND**

Montgomery County, Maryland (the “County”), files these reply comments in the above-entitled proceeding to urge the Commission to close this docket and take no further actions adverse to local governments. The record in this docket fails to demonstrate that there is any systemic problem obtaining access to public rights-of-way or to obtaining local community approval for siting of wireless facilities, and thus fails to provide any basis for further Commission action to regulate local rights of way and wireless siting policies. The County urges the Commission to focus its scarce resources on completing other open proceedings that will speed deployment of, as well as increase public adoption of, broadband services.

**I. THE RECORD DOES NOT SUPPORT COMMISSION ACTION TO REGULATE LOCAL RIGHTS OF WAY AND SITING POLICIES.**

In the NOI,<sup>1</sup> the Commission rightly recognized that it should act only if and to the extent the facts support a need for action, describing the inquiry as “a necessary step towards determining whether there is a need for coordinated national action to improve rights-of-way and wireless facilities siting policies, and, if so, what role the Commission should play in conjunction

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<sup>1</sup> *In the Matter of Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting*, Notice of Inquiry, WC Docket No. 11-59, (rel. April 7, 2011) (“NOI”).

with other stakeholders.”<sup>2</sup> The comments filed in this proceeding support the determination that there is no need for coordinated national action to improve rights of way and wireless facilities siting policies.

Further, in the NOI, the Commission committed to acting in accordance with the Chairman’s oft-stated pledge to “ensure that the rulemaking process will be fair, transparent, fact-based, and data-driven.”<sup>3</sup> The Commission’s Notice stated the Commission sought to judge accurately the magnitude of any issues, by seeking:

- “a detailed record of the nature and scope of broadband deployment issues, including both best practices that have promoted deployment and matters that have resulted in delays”
- “systemic practices rather than individual or anecdotal situations, which are less suited for federal policies”
- “a factual basis upon which to determine the nature and extent of any problems”<sup>4</sup>

Based on the record compiled in this proceeding, a data-driven, fact-based analysis must conclude that there is no systemic problem at the State and local level of government which requires creation of a new (and questionably legal) federal policy.

**A. In the Absence of Industry Supplied Data, the Commission Must Rely on Local Government Data to Conclude That There is No Systemic Problem Which Would Require Creation of New Federal Policy.**

The industry comments in the record are telling in their lack of substance, leaving only one conclusion for the Commission to draw – there are no systemic problems with respect to

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<sup>2</sup> NOI, ¶ 9.

<sup>3</sup> “Preserving a Free and Open Internet: A Platform for Innovation, Opportunity, and Prosperity”, Prepared Remarks of Chairman Julius Genachowski, The Brookings Institution, Washington DC, September 21, 2009.

<sup>4</sup> NOI, ¶ 9

local governments' rights of way and wireless siting policies. In contrast, the statistical data provided by local governments demonstrates that local government regulation promotes deployment of broadband services.

Not one industry commenter filed any statistical analysis of any sort. Not one.

Any "fair, transparent, fact-based, and data-driven" rulemaking should start with a simple analysis: the number of applications to place wireline and wireless facilities filed with local governments and the number of final decisions issued by local governments. In this proceeding, the wireless telecommunications industry largely relied upon sweeping accusations filed by its trade associations, coupled with a sprinkling of anecdotes from four telecommunications companies,<sup>5</sup> but these same trade associations and telecommunications companies filed no specific statistical analysis as requested by the Commission. According to the CTIA survey cited by the Commission in the NOI, the wireless industry uses 253,086 total cell sites to provide an estimated 302,859,674 connections to customers.<sup>6</sup> Yet the industry filed no information about the total number of wireless facilities deployed over the past several years, nor any other information to measure the statistical relevance of its anecdotes. Instead, the industry provided anecdotes regarding problems siting facilities in 76 locations.<sup>7</sup> When viewed in context, even if

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<sup>5</sup> The County believes that many communities will contest the anecdotes filed in this proceeding.

<sup>6</sup> NOI at footnote 7, citing CTIA, *Year-End 2010 Top-Line Survey Results* at 10, 2 (2010), available at [http://files.ctia.org/pdf/CTIA\\_Survey\\_Year\\_End\\_2010\\_Graphics.pdf](http://files.ctia.org/pdf/CTIA_Survey_Year_End_2010_Graphics.pdf)

<sup>7</sup> *In the Matter of Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights-of-Way and Wireless Facilities Siting*, MB WC Docket No. 11-59, Comments of CTIA, The Wireless Association (July 18, 2011) ("CTIA's Comments"), 16-17; *In the Matter of Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights-of-Way and Wireless Facilities Siting*, MB WC Docket No. 11-59, Comments of Verizon and Verizon Wireless (July 18, 2011) ("Verizon's Comments"), 9-12; *In the Matter of Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights-of-Way and Wireless Facilities Siting*, MB WC Docket No. 11-59, Comments of

all the industry's putative anecdotes were verified, the industry is asking the Commission to expend scarce resources to create a new national policy to address issues that do not arise in 99.97 percent of sitings.

The industry named 726 communities in filed comments. The majority of these communities were cited simply for having zoning ordinances that require application fees, set back limits, variances to place facilities in areas not zoned for commercial use, or requirements for stealth facilities. The U.S. Census bureau reports that there are 39,044 general purpose local government units in America.<sup>8</sup> Thus, in context, even if all the industry's putative claims were verified, the industry is asking the Commission to expend scarce resources to create a new national policy to address issues that arise in less than two percent of U.S. jurisdictions.<sup>9</sup>

The statute created by Congress, and the recent FCC Tower Siting Order, direct applicants to use the courts to resolve disputes on a case by case basis.<sup>10</sup> There is no reason to create a national regulation for a problem than does not exist in 99.97 percent of the applications and 98.14 percent of jurisdictions. The industry commentators did not file any statistical analysis to suggest otherwise. And those same commentators chose to ignore entirely any facts or even

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NextG Networks, Inc. (July 18, 2011) ("NextG's Comments"), 8-11, 13, 23-24; *In the Matter of Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting*, MB WC Docket No. 11-59, Comments of AT&T Inc. (July 18, 2011) ("AT&T's Comments"), 3-7, 9-10, 14 (FN17), 15 (FN20-22), 16 (FN23), 17, 19.; *In the Matter of Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights-of-Way and Wireless Facilities Siting*, MB WC Docket No. 11-59, Comments of PCIA – The Wireless Infrastructure Association and the DAS Forum (A Membership Section Of PCIA) (July 18, 2011) ("PCIA's Comments"), Exhibit B and Exhibit B Table 2.

<sup>8</sup> U.S. Census Bureau, 2007. See <http://www.census.gov/govs/cog/GovOrgTab03ss.html>. Of those 39,044, there are 19,492 municipalities and 16,519 townships which sit within 3,033 counties.

<sup>9</sup> 726 named communities divided by 39,044 U.S. local governments equals 1.859 percent.

<sup>10</sup> 47 U.S.C. 332(c)(7)(b)(v).

anecdotes about the industry’s experience since creation of the FCC’s “shot clock” rules, *i.e.*, : the number of applications filed; the number granted or denied; the time taken by local governments to review applications and to reach a final decision. Montgomery County respectfully requests that the Commission request the same level of detailed analysis from industry and close this proceeding if such information is not provided. Ignoring the Commission’s request for shot clock results suggests the industry cannot point to substantial results from the federal rule. This is consistent with local government comments that the shot clock rules have actually slowed and complicated siting processes.<sup>11</sup> This is an important object lesson—solutions to non-existent problems are counterproductive. Without more evidence than the industry has produced to date, the Commission must conclude there is no systemic wireless or wireline siting problem which requires further Commission action.

**B. Montgomery County Herein Provides Updates to Previously Submitted Detailed Information on How Local Regulation Has Facilitated the Deployment of Wireless Telecommunications Facilities.**

The experience of Montgomery County is similar to the expert analysis provided in the National Association Comments. As the County demonstrated in its Comments, in communities where there is significant demand to place wireless facilities, local regulation is necessary to manage this growth. Local regulation is not adversely affecting deployment of wireless broadband facilities within the County. Since 1996, the County has approved deployment of 1,592 total wireless facilities (*i.e.*, antennas, monopoles, and towers) by the following 32 companies<sup>12</sup>:

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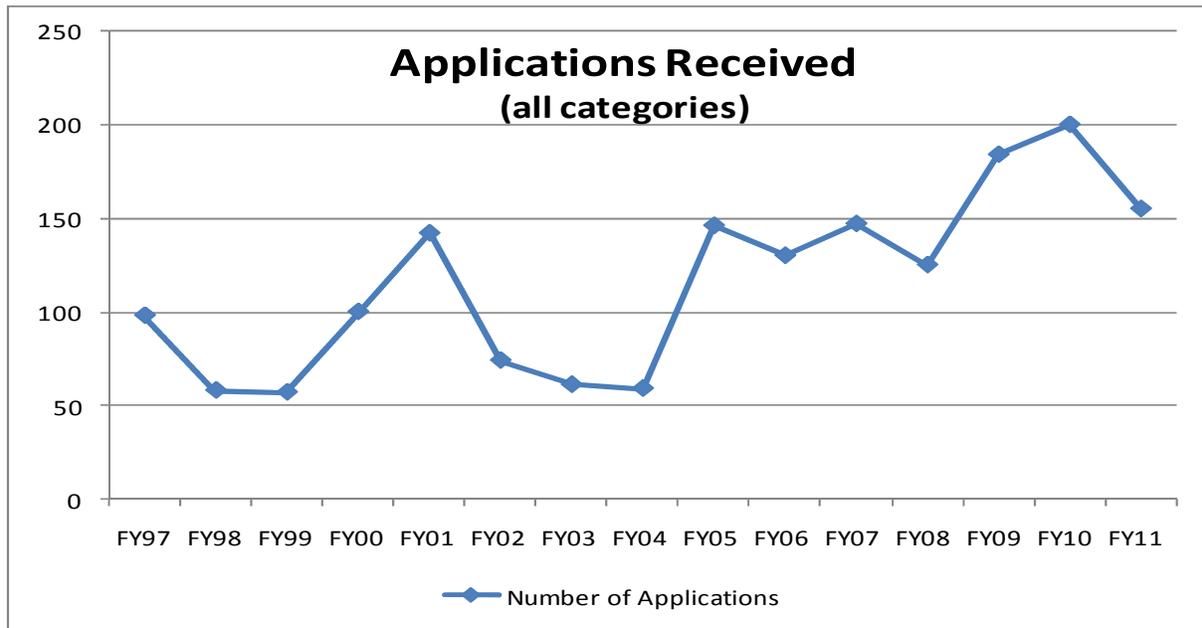
<sup>11</sup> *See e.g.*, Montgomery County Comments at 38.

<sup>12</sup> The County noted that it had approved 1,517 applications through March 30, 2011. (Page 8, Figure 2). The County herein provides update figures through end of its 2011 Fiscal Year which ended June 30, 2011. *See* Montgomery County Comment at 22 for discussion of the County’s antenna and tower siting process.

- Airband Communications;
- AT&T;
- Baltimore Gas & Electric;
- Bell Atlantic;
- Bell South;
- Birach Broadcasting;
- Cellular One;
- Cingular Wireless;
- Clearwire;
- Comtech;
- Cricket;
- Crown Castle;
- Fiber Tower;
- Flo TV;
- Fuzion Wireless;
- Horizon W-Com;
- Light Squared;
- Metricom;
- Modeo;
- New Path;
- New Wave;
- NextG;
- Page Net;
- Sirius;
- Southwestern Bell;
- Sprint;
- Teligent;
- T-Mobile;
- US Wireless;
- Verizon Wireless;
- Winstar Wireless; and
- XM Satellite.

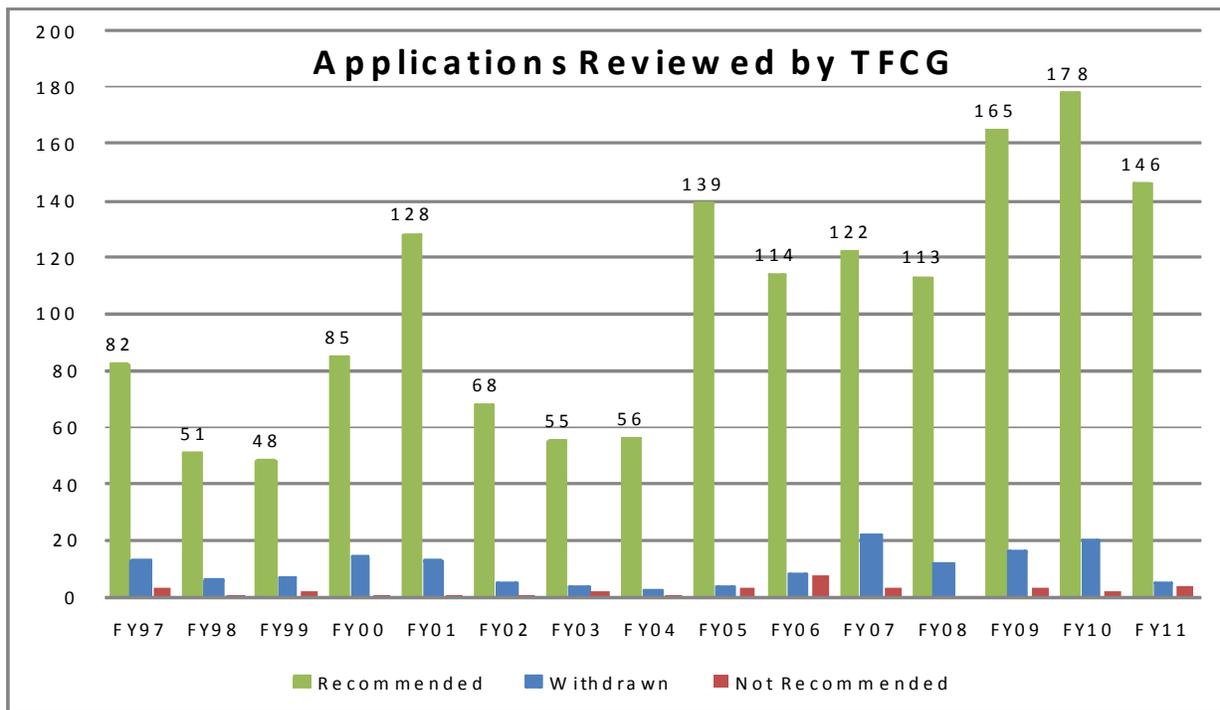
The County has overseen the deployment of three generations of smart phone technology in the same time period, and is currently working with providers to grant approval for providers to deploy 4G facilities throughout the County. The number of applications submitted to the County has varied and largely grown over the past 15 years. The regulatory process, however, has largely remained the same.

**Figure 1**



**Applications to Site Wireless Facilities Have Continue Grow  
Since the County Implemented a Regulatory Review Process in 1996**

**Figure 2**



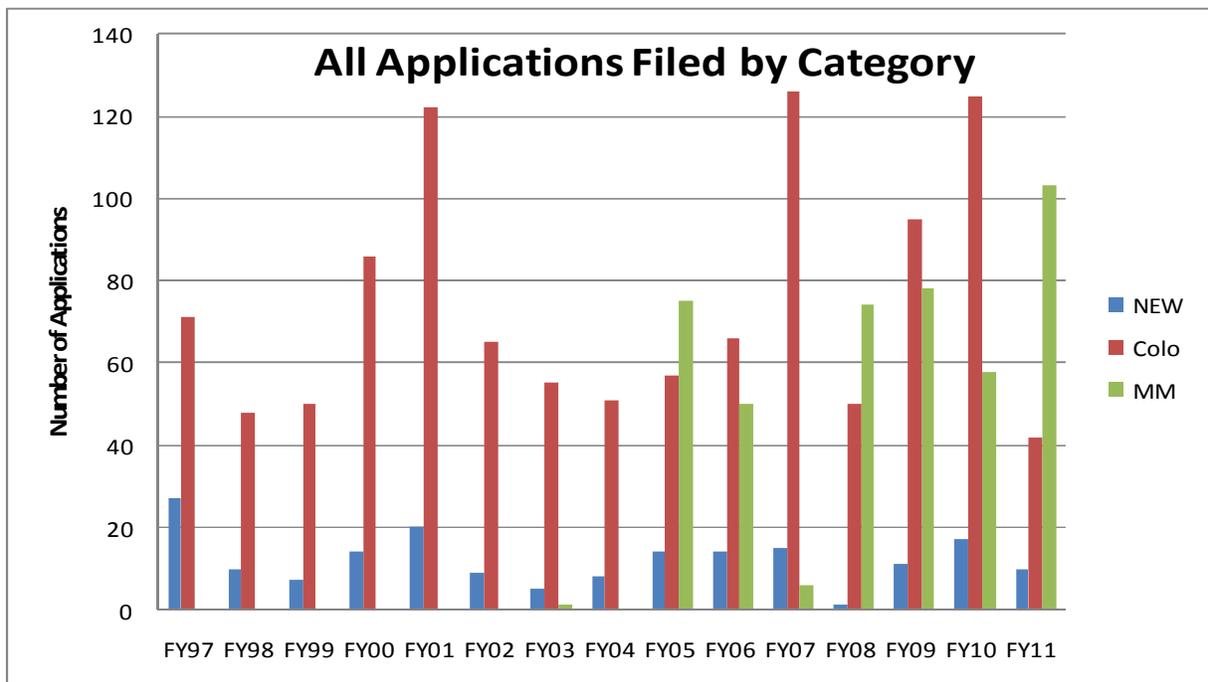
**Since 1996, of the County Has Approved 1592 Applications, Denied 14, and Industry Has Withdrawn 107**

Thus, the statistical data provided by Montgomery County supports the conclusions in the National Association expert reports that broadband deployment is driven by factors other than State and local regulation and that State and local regulation is not a barrier to deployment. These are semi-permanent structures that must meet zoning codes and safety standards. While some back and forth negotiation or information exchange may be necessary, in the absence of any other overall data, the Commission’s inquiry should conclude that there is no need for a further national policy to address these localize issues.

**1. Allegations That Local Government Regulation Obstructs Collocations Are Not Supported by Evidence in the Record.**

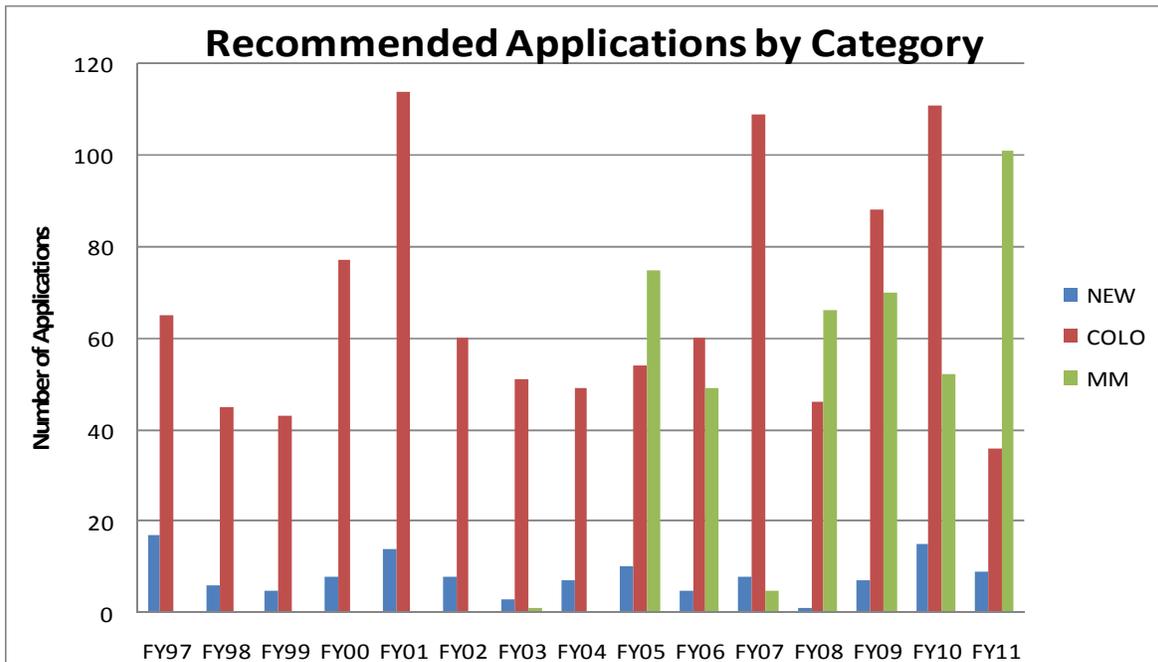
In addition, as reported in its initial comments, the County has encouraged and approved extensive collocations. Figures 3 to 5 show the growth in County collocations, as well as in minor modifications (*these charts have been updated to include full FY 2011 data*). These applications have been approved, with few exceptions, with the result that the number of sites serving multiple carriers has increased tremendously.

**Figure 3**



**The Majority of Applications Received in the Past 3 Years Have Been to Collocate Facilities or to Make Minor Modifications (to Replace 2G/3G with 3G/4G Antennas)**

Figure 4



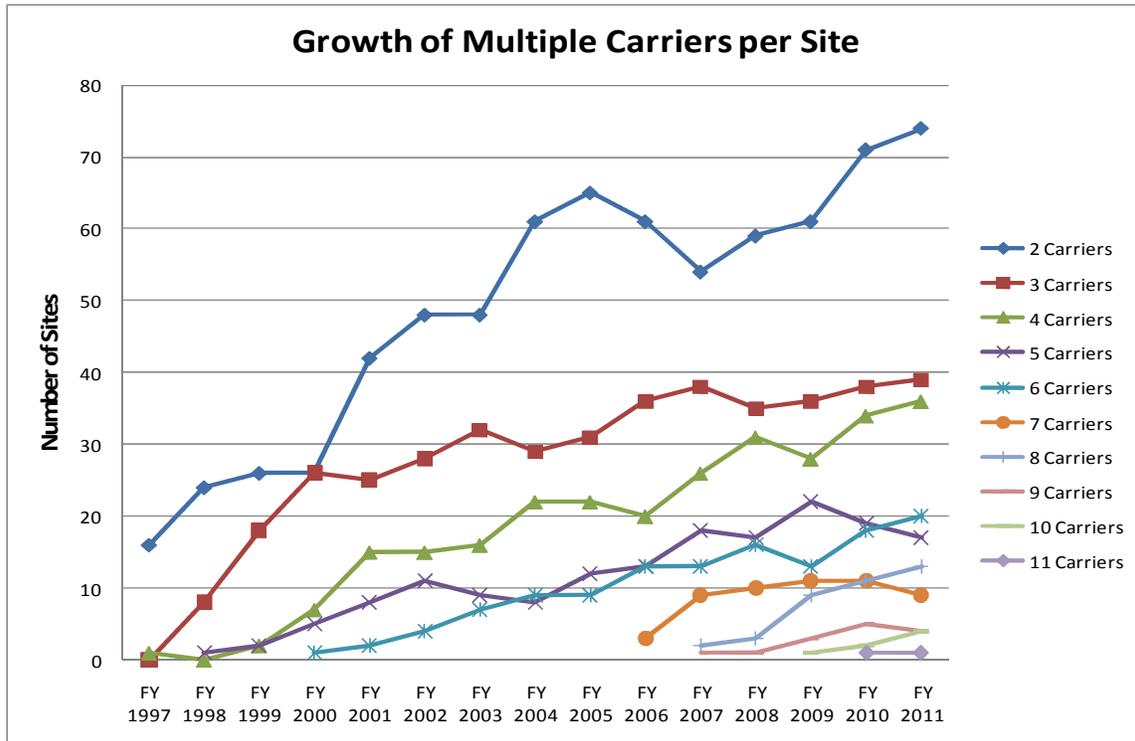
**The Majority of Approvals Granted in the Past Three Years Have Allowed Collocation or Minor Modifications of Facilities**

However, the growth of collocations brings its own challenges. As noted in the County’s Comments and in the National Association’s Comments,<sup>13</sup> many of the facilities upon which collocation occurs, may have not been initially designed to support the number of facilities which they hold today. Moreover, these facilities are typically located outdoors where they are exposed to severe summer heat, freezing winter snow pack, winter storms and occasional hurricanes or tropical storms. In addition, as noted in the County’s Comments, the industry wind rating safety standards have been revised and these are enforced on existing structures only as

<sup>13</sup> Montgomery County Comments at 16; *In the Matter of Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights-of-Way and Wireless Facilities Siting*, MB WC Docket No. 11-59, Comments of the National League of Cities, the National Association of Counties, the United States Conference of Mayors, the International Municipal Lawyers Association, the National Association of Telecommunications Officers and Advisors, the Government Finance Officers Association, the American Public Works Association, and the International City/County Management Association (July 18, 2011) (“National Associations’ Comments”), at 46-48.

the structure is modified.<sup>14</sup> Thus, in contrast to industry claims that collocation should be subject to less regulatory review,<sup>15</sup> there are sound safety reasons to carefully review collocation applications.

**Figure 5**



**1 Percent of Montgomery County Wireless Facility Locations Have 2 or More Carriers Collocated and 34 Percent Have At Least Three Carriers**

As the chart above demonstrates, the County now has over 50 sites with six or more collocated facilities (and 217 sites serving multiple carriers). Table 1 shows the total number of sites with multiple carriers; Tables 2 and 3 show the split between monopole sites and tower sites with multiple carriers (these tables have been updated to include full FY 2011 data).

<sup>14</sup> Montgomery County Comments at 23 and FN 30.

<sup>15</sup> Verizon’s Comments, 8.

**Table 1**

No. of Carriers Applied for Site	Number of Site with Multiple Carriers														
	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
2	16	24	26	26	42	48	48	61	65	61	54	59	61	71	74
3	0	8	18	26	25	28	32	29	31	36	38	35	36	38	39
4	1	0	2	7	15	15	16	22	22	20	26	31	28	34	36
5		1	2	5	8	11	9	8	12	13	18	17	22	19	17
6				1	2	4	7	9	9	13	13	16	13	18	20
7										3	9	10	11	11	9
8											2	3	9	11	13
9											1	1	3	5	4
10													1	2	4
11														1	1
Sites w/ Multiple Carriers	17	33	48	65	92	106	112	129	139	146	161	172	184	210	217

**Table 2**

Number of Carriers with Antennas at the Monopole Site	Number of Monopole Sites with Multiple Carriers														
	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
2		11	11	7	9	8	9	16	18	13	7	7	9	10	16
3		5	12	12	11	12	11	7	6	10	12	10	7	10	10
4			1	5	7	7	9	12	14	12	10	13	9	7	6
5				2	5	6	4	4	6	8	11	10	13	10	12
6						1	3	4	4	6	5	8	5	9	8
7										1	6	5	7	4	5
8											1	2	7	9	8
9													1	3	0
10														1	3
11															1
Monopole Sites with Multiple Carriers	0	16	24	26	32	34	36	43	48	50	52	55	58	63	68

**Table 3**

Number of Carriers with Antennas at the Tower Site	Number of Tower Sites with Multiple Carriers														
	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
2		3	3	1	9	12	15	17	20	19	20	20	21	22	20
3			1	5	3	2	3	4	4	6	4	6	8	8	8
4			1	0	4	3	3	3	2	2	6	5	8	9	11
5				1	2	4	4	3	4	3	3	2	3	3	5
6						1	1	2	2	5	4	3	1	3	1
7											2	3	3	3	3
8													2	3	2
9															0
10															1
11															
Tower Sites with Multiple Carriers	0	3	5	7	18	22	26	29	32	35	39	39	46	51	51

The unmistakable conclusion, based on this *actual data* is that deployment of collocated wireless broadband is not being hindered by County policies and the tremendous growth in collocation requires careful management and enforcement of safety codes.

**2. *Specific Allegations of Problematic Use of Consultants Are Unfounded and Not Supported by Evidence in the Record.***

Some industry associations have provided the Commission with lists of local governments that are allegedly difficult to work with. These unsubstantiated, and cursory lists fly in the face of the Commission’s instructions that commenters identify “with specificity particular examples or concerns [to] ensure that the Commission has a complete understanding of the practices and can obtain additional background if appropriate.”<sup>16</sup> In the County’s case, the County knows the allegations are false and misleading.

PCIA—The Wireless Infrastructure Association and the DAS Forum (collectively, “PCIA”) is one such commenter, and the County appears on one of their lists. PCIA asserts that the County is one of many communities across the country that “retain consultants identified by the wireless infrastructure industry as obstructionists and problematic” because they impose “barriers and prohibitive costs associated with the deployment of wireless facilities.” It claims that these consultants lead these communities to “charge excessive application fees, impose superfluous application requirements (including proof of need), require discretionary review for collocations, and delay the application and review process.”<sup>17</sup>

In the County’s case, these statements are demonstrably false and are not “evidence.” The County uses consultants to provide engineering analysis and to issue a staff recommendation which is then reviewed and voted upon by appointed members of the County’s Transmission Facility Coordinating Group.<sup>18</sup>

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<sup>16</sup> Id.

<sup>17</sup> PCIA’s Comments at Exhibit B, 11.

<sup>18</sup> Montgomery County Code Sec. 2-58E; Code of Montgomery County Regs. 02.58E.01.03(e) and 02.58E.01.06

Local governments may employ consultants because they provide specific expertise which is not cost effective to retain as full-time staff, or because it is more cost effective to use contractors to handle fluctuating volume. The use of consultants directly aids industry applicants because it assures all applications are handled similarly, within the same time period, as the consulting firm is able to devote additional personnel during peak periods. As the chart below demonstrates, industry tends to submit more applications during the first and last quarters of the year.<sup>19</sup> Contracting out the initial professional review of the applications permits the County to react more quickly during busier periods. It avoids the budgetary and personnel problems associated with maintaining too much or too little expertise on staff throughout the year. This is a prudent use of County resources.

**Table 4**

Number of Applications Received by Quarter					
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL
FY 2007	44	36	28	47	155
FY 2008	21	12	32	48	113
FY 2009	79	32	26	128	265
FY 2010	42	37	18	26	123
FY 2011	61	36	15	80	192
TOTAL	247	153	119	329	

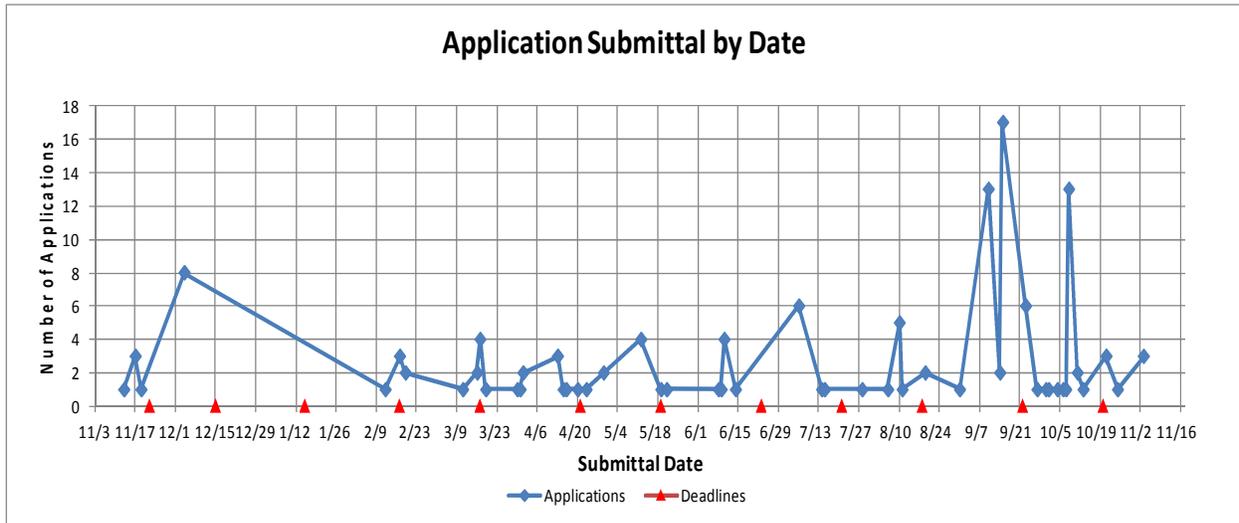
**Volume of Applications Received in the 4th and 1st Quarters Is 110 Percent Higher Than the Volume of Applications Received in the 2nd and 3rd Quarters**

Moreover, the industry does not provide applications on an even and consistent basis throughout a particular month. Figure 6 provides an analysis of the date in the month upon which applications were submitted between November 2009 and November 2010. As the figure below demonstrates, industry does not submit applications for review on a consistent basis throughout a month or over a year.

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<sup>19</sup> The County speculates that the timing of these submissions is largely driven by the timing and availability of capital construction budgets of individual companies.

**Figure 6**



**The Volume of Applications Received Varies Widely By Month and Week**

Each data point on Figure 6 lists the number of applications received on a particular day. The vertical lines delineate each week. The triangles at the bottom note the date by which an application must be received to be eligible for inclusion in the next month’s regulatory review meeting. The Figure demonstrates that in early December, eight applications were received on a single day, and then no applications were received until a single one was filed in the first week in February. From February to June, between one and four applications were filed each week. In late June, a high of six application were received on one day, then three total applications were received in July and early August, until a high of five applications was received on August 10th and four more applications were received in the rest of August. But then, in September, **forty** applications were received within a single week, followed by six for the rest of the month, and another spike of fifteen applications in a single day in October.

This data illustrates the problem with broad application of shot clocks. The Commission’s rules require localities to have resources available on hand to review applications for completeness within thirty days. As the example above demonstrates, that would have

required the County to have enough staff available to review forty applications for completeness within that 30 days, but then there also would have been several months where no staff was required to review any applications and most months where less than ten applications must be reviewed. For these reasons and others, localities may use consultants. Mere use of a consultant is not a matter that requires creation of a new national policy and the County respectfully requests that the Commission cease further inquiry into this issue.<sup>20</sup>

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<sup>20</sup> In Montgomery County alone, thirty-two companies have employed forty-two different consultants. Below is a list of consultants used by telecommunications companies who have filed applications to site wireless facilities within the County:

1. NB&C
2. Dynis
3. NewPath Networks
4. Crown Castle
5. American Tower
6. Jackson and Campbell
7. Smartlink
8. WFI Net
9. Velocitel
10. Sitelink
11. SCE, Inc
12. BCI Communications
13. Sean Hughes Law
14. Donohue and Stearns
15. ACO Property Advisors
16. Nexlink Global Systems
17. Chip Ryan, Esq.
18. Arial Spectrum
19. Frank Washart
20. Goodman Networks
21. Law Offices of M.G. Diampnd
22. Mcearthy Consulting
23. SBA Networks
24. SDM Wireless Enterprises MACS, Inc

In addition, the following consultants have provided structural analysis reports to the County on behalf of telecommunications companies:

1. Columbia Wireless Facility
2. Tower Resources, Inc.
3. General Dynamics

**3. *Claims That Local Governments Create Delays Is Not Supported by Evidence in the Record.***

Several industry commentators claimed that a handful of applications were delayed by local governments or took a long time to process.<sup>21</sup> But as is true with most disputes, there are two sides to every story and in Montgomery County, the majority of “delays” are created by the providers themselves.

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4. Bechtel
  5. Entrex
  6. Armor Tower
  7. B&T Engineering
  8. Millennium Engineering
  9. Paul J. Ford and Company
  10. Morris & Ritchie Associates, INC.
  11. KCI Technologies
  12. Spectrasite
  13. Site
  14. Lucent Technologies
  15. CMX Telecommunications
  16. Clough Harbour and Associates
  17. MAX Engineering
  18. Safesite, Inc.

<sup>21</sup> CTIA’s Comments, 16-17; Verizon’s Comments, 8-9, 12; NextG’s Comments, 8-10; AT&T’s Comments, 6-7, 14 at FN17.

**Table 5**

Montgomery County 2010 Colocation and Minor Modification Applications				
Applications	- excluding New Monopoles			
Total (incl w/drawn)	175			
Filed Complete	101			
Incomplete	57			
Withdrawn	17			
	Shortest	Longest	Average	Median
Total Days to TFCG Action	9	274	34	26
	(not including withdrawn)			
Days to Notice	0	63	13	10
Days to Complete (Applicant)	0	251	17	5
County Process Time (incl Notice)	7	76	27	22
Total Days to Action (Incomplete)	12	274	50	26
Total Days to Action (Complete)	9	76	25	26

**Time Spent Waiting For Industry to Complete Applications  
Doubles the Time Necessary to Process Applications**

Table 5 provides specific factual analysis of a year’s worth of wireless facilities applications reviewed by Montgomery County in 2010. Of 175 applications, over thirty-two were incomplete. Put another way, for every two applications the County received that were complete, the County received one that was incomplete. Problems that typically result in a colocation application being deemed incomplete include:

- Applications that describe attachments that are different than what the attached site plans, elevation drawings, or antenna specifications show.
- Applications with plans which are different than what the existing monopole supports today, differing elevations of antennas, antennas presently attached to the monopole are not shown, and use of ground space that exceeds that approved by a special exception to permit the monopole to begin with.
- Applicants enter the wrong street, address, wrong city, or all three.

- Applications listing the incorrect zone or incorrect property owner, both of which are important information needed for obtaining a permit.
- On some applications the application says one kind of attachment will be made, while the supporting documentation shows something different.
- Submission of a structural analysis has been provided which states the structure cannot support the proposed antennas and related cabling.
- Applications submitted on the wrong form.
- Applications for which the property owner has not agreed to the lease or even approved the attachment.
- No heights of buildings, size of equipment sheds, distances from property lines shown on drawings, or in the text, or both.
- No fax or e-mail numbers for contact person.

Failure of industry to file complete applications drives up applications review costs. In one instance, one applicant took 251 days – *over eight months* – to provide requested information. But on average, the industry took 17 days to provide additional information. This analysis further highlights the problem of relying on individual anecdotes. If the County only presented the fact that one applicant took over 8 months to respond to a data request, and asked the Commission to create an shot clock for industry responses to information requests, the Commission might unnecessarily engage in a rulemaking proceeding to address a problem which does not exist for the majority of applicants.

Finally, Montgomery County notes that faster processing is largely a result of receiving complete applications from industry and dedication of County resources to process these applications. Table 5 demonstrates that by using consultants and dedicated staff, maintaining a public database of site locations, and providing zoning incentives and collocation preferences, the County is able to quickly process applications.

**Table 6**

Processing Times for Applications Reviewed by the TFCG				
FY 2011				
	Average	Median	Shortest	Longest
Minor Modification	22	21	13	56
Co-location	24	23	9	110
New	36	30	15	96
<i>Note – five applications were withdrawn</i>				
FY 2012 YTD				
Minor Modification	28	23	10	43
Co-location (1 app)	6	6	6	6
New (1 app)	6	6	6	6

**With Sufficient Resources, Applications Can Be Processed Quickly**

Montgomery County is a large metropolitan jurisdiction with many residents who desire wireless telecommunications and broadband services. Therefore, the County subsidizes the cost of reviewing applications for tower siting facilities and augments the process with dedicated staff. Not every jurisdiction is as fortunate. Trying to create a one-size-fits-all approach would place a disproportionate burden on many communities. The Commission should recognize that communities do many things to promote broadband deployment and adoption; pouring additional resources into shortening the already reasonable review period for wireless facilities is not the most effective means to increase broadband deployment.

**4. *Claims That Local Governments Oppose DAS Are Not Supported by Evidence in the Record.***

Montgomery County has reviewed and recommended three applications for DAS systems. In various forums, the Commission has suggested that it should expend its scarce resources providing local governments with information about DAS systems. The County suggests that such expenditure is not warranted, but further suggests that if such resources are

expended, the Commission should focus on educating the industry on acceptance of this new technology. The County notes that some providers have been reluctant to use DAS to supplement their existing facilities or claim that their systems are not compatible with DAS technology or the specific DAS system built.

**II. THE COMMISSION COULD BETTER PROMOTE BROADBAND DEPLOYMENT BY CONCLUDING ITS WORK IN OTHER OPEN PROCEEDINGS.**

Montgomery County respectfully notes that unlike the federal government, most State and local governments must operate using balanced budgets. Resources spent responding to Federal Communication Commission inquiries divert resources, attention and energy from County efforts to fund expansion of community broadband deployment, work with providers to develop public-private solutions to improve broadband deployment in low population density areas, and to fund and support broadband adoption programs. The County expended significant resources to respond to numerous Commission broadband proceedings, implement the federal shot, track results and hire additional contract staff to meet these new federal regulations during a period in which the County simultaneously reduced County services over three budget cycles to cover over \$2.5 billion in revenue gaps while simultaneously beginning an unprecedented effort to support implementation of a \$115 million ARRA grant to deploy 1,500 miles of broadband facilities to bring high speed broadband to 1,000 community anchor institutions in Maryland's twenty-four counties.

In the absence of statistical evidence of a real problem deploying wireline and wireless facilities, the County respectfully requests that the Commission conclude this inquiry and spent its limited resources completing its work in other dockets. Specifically, the County suggests that the Commission would meet its goal of improving deployment of broadband services by redirecting resources to the following dockets:

- Pole Attachments: The Commission should take action on the petitions for reconsideration of its pole attachments order and clarify whether the shot clock in that Order applies to make ready pole replacements. This is a critical issue for ARRA broadband grant recipients, including the County (as a member of the One Maryland project). These recipients are working against the clock to meet the deadlines for completing their deployments, and delays and uncertainties over process are taking up valuable time.
- Universal Service Fund: The Commission should conclude its efforts to modernize the Universal Service Fund to fund the expansion of broadband infrastructure in rural areas
- Broadband Task Force: The Commission should ramp up efforts to promote digital literacy and broadband adoption. The County strongly supports the Commission's launch of this initiative, but since the Taskforce was announced by Chairman Genachowski, no further action has been taken by the Commission.

### III. CONCLUSION

The County urges the Commission to conclude that right-of-way and wireless facility siting policies and charges are not impeding broadband deployment. As indicated above, there is no evidence that the local government policies have impaired broadband deployment, and there are many reasons to believe that federal regulations would prove costly and disruptive to our community.

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Respectfully submitted



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