

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

In the Matter of	)	
	)	
Environmental Effects of Antenna	)	WT Docket No. 08-61
Structure Registration Program	)	WT Docket No. 03-187
	)	
	)	

**COMMENTS OF AT&T INC.**

AT&T Services, Inc., on behalf of its wholly-owned and controlled wireless affiliates (collectively “AT&T”), submits these comments in response to the Public Notice (“*Notice*”) released by the Federal Communications Commission (“Commission”) pertaining to a Programmatic Environmental Assessment (“PEA”) of the Commission’s Antenna Structure Registration (“ASR”) program.<sup>1</sup>

**DISCUSSION**

In 2008, the D.C. Circuit, in *American Bird Conservancy, Inc. v. FCC*, determined that the Commission had not adequately evaluated the potential environmental effects of its ASR program and notified the Commission that it could undertake this evaluation, including the impacts on migratory birds, by performing a PEA.<sup>2</sup> The Commission has completed that PEA and seeks comment on various alternatives proposed in the PEA to address potential environmental effects from the ASR program. The Commission also considers whether a more extensive analysis, in the form of a programmatic Environmental Impact Statement (“EIS”), is needed.

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<sup>1</sup> *Public Notice*, Draft Programmatic Environmental Assessment of Antenna Structure Registration Program, WT Docket No. 08-61, WT Docket No. 03-187 (rel.Aug. 26, 2011).

<sup>2</sup> *American Bird Conservancy, Inc. v. FCC*, 516 F.3d 1027, 1034 (D.C. Cir. 2008).

The PEA considers five alternatives for the ASR program and the extent to which adopting those alternatives might impact the environment:<sup>3</sup>

**No Action Alternative:** Continue the ASR program and NEPA compliance rules as they currently exist.

**Alternative 1:** Continue the existing ASR program and NEPA compliance rules. Future towers would use red flashing lights and not red steady-burning lights if the Federal Aviation Administration (“FAA”) revises its lighting rules.

**Alternative 2a:** An EA is required for (1) new registered towers outside of an antenna farm; (2) towers in an antenna farm, replacement towers, and modifications of existing towers if they involve a substantial increase in size over the existing tower; and (3) changes to existing towers involving a change to steady-burning lights, a change to high-intensity white lights in a residentially zoned neighborhood, the addition of lights, or human exposure to radio frequency (RF) radiation in excess of FCC limits.

**Alternative 2b:** An EA is required for (1) a new registered tower that is located within 660 feet (201 meters) of a Bald Eagle nest or 0.6 mile (1 km) of a Golden Eagle nest; (2) a new registered tower located on or in a ridgeline, coastal zone, bird staging area, or colonial nesting sites if the tower would be more than 450 feet (137 meters) tall, would use red steady-burning lights, or would use guy wires; (3) towers in an antenna farm, replacement towers, and modifications to existing towers under (1) and (2) above if they involve a substantial increase in size; and (4) an existing tower located in a ridgeline, coastal zone, bird staging area, or colonial nesting site if red steady-burning lights are added.

**Alternative 2c:** An EA is required for (1) any new registered tower that is more than 450 feet (137 meters) above ground level (AGL); and (2) any replacement or modification of an existing tower that is more than 450 feet (137 meters) AGL which involves a substantial increase in size.

After a thorough analysis, the Commission correctly concluded that under all of these ASR program alternatives, the impacts at the national level on all environmental resources, including migratory birds, are not significant, and therefore, an EIS is not required.

The Infrastructure Coalition<sup>4</sup> is filing comments today in response to the *Notice* supporting the Commission’s PEA and the findings of the PEA that the ASR program, under

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<sup>3</sup> All ASR program alternatives considered by the Commission and evaluated in the PEA include public notice, a 30-day comment period, and the need to file an environmental assessment (“EA”) when required by the current NEPA rules.

every alternative considered, would have no significant impact on the environment, and in particular, on migratory birds. AT&T, a member in CTIA and PCIA, endorses the comments filed by the Infrastructure Coalition and supports the findings of the PEA. The PEA, following an extensive analysis of avian environments, flight patterns, and avian mortality—including the studies demonstrating that bird deaths from towers represent only 0.05 percent of the overall U.S. bird population and approximately 0.2 percent of annual avian mortality--concluded correctly that none of the alternatives proposed for the ASR program would significantly impact the environment, including migratory birds.

In light of this finding that the ASR program, regardless of the manner in which it is configured, would not significantly impact the environment, the Commission should adopt the means for tower owners to register towers that is least restrictive, but that still has no significant impact on the environment—the No Action Alternative. Processing ASRs under the Commission’s existing ASR and NEPA rules, combined with a public notice and 30-day comment period for ASRs, would adequately minimize any environmental impact, while at the same time it would promote the enforcement of air safety rules by recording all towers that require notice with the FAA. The No Action Alternative would also minimize the delays and uncertainty that would arise with a significant change in the ASR rules, allowing broadband deployment to continue.

If the FAA alters its rules to allow for the placement of red flashing lights instead of red steady-burning lights, the Commission might also adopt Alternative 1—Existing ASR Program with FAA Lighting Changes, as this alternative would minimize impact on the environment in the same manner as the No Action Alternative. It also would further mitigate the local impact on

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<sup>4</sup> The Infrastructure Coalition consists of CTIA—The Wireless Association®, the National Association of Broadcasters, PCIA—The Wireless Infrastructure Association and the National Association of Tower Erectors.

migratory birds without unnecessary delays or burdens to the telecommunications industry or the Commission, provided that structure owners are not required to retrofit existing towers with red flashing lights, which would present significant unnecessary costs. Like the No Action Alternative, Alternative 1 also would not introduce the unnecessary delays and uncertainty into the ASR process that could otherwise occur if unjustified changes are adopted.

In contrast, the Commission should not adopt Alternatives 2A or 2B, as they are overly restrictive and would introduce substantial uncertainty and delays into the ASR process, while not significantly altering the environmental impact of the ASR program as a whole relative to the other alternatives under consideration. The delays associated with Alternatives 2A or 2B would significantly, and unnecessarily, hinder the deployment of broadband throughout the United States. Alternative 2C, which would require the preparation of an EA for towers in excess of 450 feet, would likewise introduce unnecessary delays into the broadband deployment timeline, as the PEA demonstrates that the additional regulatory obligations associated with Alternative 2C would have minimal impact on the environment. However, to the extent that the Commission seeks to reduce the local impact on migratory birds of towers that require an ASR, Alternative 2C would be preferable to Alternatives 2A and 2B. Alternative 2C is comparable to the Commission's interim standards for the processing of ASRs and, though not the least

restrictive means to process ASRs, it is straightforward and predictable and thus, can be incorporated into the tower construction/modification process.

November 2, 2011

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert Vitanza", with a long horizontal flourish extending to the right.

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