



November 14, 2011

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554  
*Via Electronic Filing*

Re: *Ex Parte Communication*, WT Docket No. 11-59; WT Docket No. 08-61; WT Docket No. 03-187

Dear Ms. Dortch,

On November 9, 2011 Blake Hawk and Monica Gambino of Crown Castle International Corporation, Liz Hill of American Tower Corporation, and Zac Champ and the undersigned of PCIA—The Wireless Infrastructure Association (“Parties”) met with Bill Dever, Claudia Pabo, Wesley Platt, Cindy Spiers, Tim Stelzig, and Matt Warner of the Wireline Competition Bureau and Dan Abeyta, Stephen Delsordo, Don Johnson, Patrick O’Brien and Jeffery Steinberg of the Wireless Telecommunications Bureau.

The Parties discussed how immediate Commission action, consistent with the recommendations within the Parties’ comments in the Broadband Acceleration docket,<sup>1</sup> is essential to meeting national goals for wireless broadband. To spur competition and innovation in wireless broadband, the Parties urged the Commission to streamline the efficient use of existing wireless infrastructure through modifications and collocation.<sup>2</sup> Collocating wireless facilities on existing wireless infrastructure is the most efficient and effective way to rapidly deploy next-generation wireless services.<sup>3</sup>

However, barriers to this efficient use of existing infrastructure, including *de novo* review of collocations and modifications and “legal, non-conforming use” designation of wireless infrastructure, significantly delay the deployment of wireless broadband.<sup>4</sup> Case-by-case interpretations of Section 332(c)(7) actually provide wireless providers with less certainty as to what the statute means, particularly where a provider is deploying a regional or national network that encompasses multiple jurisdictions,<sup>5</sup> therefore the Parties urged the Commission to address these barriers by interpreting Sections 253 and 332(c)(7) of the Communications Act, as amended, to prohibit denying new requests to collocate on a structure where another provider is already located.<sup>6</sup> Further, the Parties urged the Commission to issue a rule clarifying that consideration of technical or operational justifications for a wireless facility or the type of

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<sup>1</sup> Comments of PCIA—The Wireless Infrastructure Association and The DAS Forum, WC Docket No. 11-59 (July 18, 2011) (“PCIA Comments”); Reply Comments of PCIA—The Wireless Infrastructure Association and The DAS Forum, WC Docket No. 11-59 (Sept. 30, 2011) (PCIA Reply Comments”); Reply Comments of American Tower Corporation, WC Docket No. 11-59 (Sept. 30, 2011) (“ATC Comments”).

<sup>2</sup> PCIA Comments at 37-44; PCIA Reply Comments at 30-37.

<sup>3</sup> PCIA Comments at 38-39.

<sup>4</sup> PCIA Comments at 18-27; PCIA Reply Comments at 10-14; ATC Comments at 11-15.

<sup>5</sup> PCIA Comments at 66.

<sup>6</sup> PCIA Comments at 39-40; PCIA Reply Comments at 30-31.

wireless deployment within the siting application process is a technological and operational decision preempted by federal law.<sup>7</sup> The Parties also agreed with Commission staff's suggestion to hold a forum that gathers interested parties to discuss collocation policy and best practices.

In addition to these solutions, the Parties also raised several other actions the Commission can take immediately to facilitate the deployment of advanced wireless services. The Parties advocated for the adoption of the No Action Alternative in Commission's draft Programmatic Environmental Assessment of the Antenna Structure Registration Program ("PEA"), as the Draft PEA appropriately finds that towers will not have a significant impact on avian mortality under any of the alternatives and the No Action Alternative imposes the least amount of cost and delay in the deployment of wireless facilities.<sup>8</sup>

To address an unintended consequence of the Commission's use of the term "essential communications" in other proceedings, the Parties urged the Commission to clarify that its use of the term is not intended to suggest that all wireless towers used for commercial wireless service should be designated as Class III facilities under TIA-222-g design standard.<sup>9</sup> The Parties also suggested that the Commission revisit the 2001 Nationwide Programmatic Agreement for the Collocation of Wireless Facilities within 2012 to account for over ten years of technological progress and industry improvements.

Furthermore, the Parties urged Commission outreach to other federal entities. Specifically, the Parties recommended that the Commission work to add consistency to the various processes for siting wireless facilities on federal property,<sup>10</sup> and urged the Commission's support of bi-partisan federal legislation streamlining the collocation and modification review process, as contained in the Public Safety Spectrum and Wireless Innovation Act (S.911) introduced by Senate Commerce Committee Chairman Jay Rockefeller (D-WV) and Ranking Member Kay Bailey Hutchison (R-TX).<sup>11</sup> The Parties further highlighted for Commission staff several states that have approved similar legislation, including Florida, Georgia, North Carolina, and Tennessee.<sup>12</sup>

Finally, the Parties noted that each of the solutions to deployment barriers raised in the meeting is consistent with the President's mandate under Executive Order 13579, under which the Commission reviews its regulations to evaluate their impact on certain entities and whether the rules are achieving their original intent.

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<sup>7</sup> PCIA Comments at 55-56.

<sup>8</sup> Comments of the Infrastructure Coalition (CTIA, NAB, NATE, and PCIA), WT Docket No. 08-61, WT Docket No. 03-187, at 8-12 (Nov. 2, 2011).

<sup>9</sup> ATC Comments at 15-20.

<sup>10</sup> PCIA Comments at 53-54; PCIA Reply Comments at 43-44; ATC Comments at 8-15.

<sup>11</sup> PCIA Comments at 37-38; PCIA Reply Comments at 45.

<sup>12</sup> PCIA Comments at 19 fn.85, 20 fn. 86-88.

The attached agenda was circulated among FCC staff during the meeting.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter will be filed via ECFS with your office. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

          /s/            
Jonathan M. Campbell  
Director, Government Affairs  
PCIA—The Wireless Infrastructure Association  
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Cc: Bill Dever; Claudia Pabo; Wesley Platt; Cindy Spiers; Tim Stelzig; Matt Warner; Dan Abeyta; Stephen Delsordo; Don Johnson; Patrick O'Brien; Jeffery Steinberg