



August 6, 2012

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Written Ex Parte Presentation  
WC Docket No.11-59**

Dear Ms. Dortch:

On June 14, 2012, President Obama signed Executive Order 13616, which establishes an interagency Federal Property Working Group to facilitate broadband deployment on Federal lands.<sup>1</sup> As the Federal agency responsible for commercial communications licensing and regulation, the Commission is charged with providing “advice and assistance” to the Working Group as it fulfills the President’s mandate to develop and implement strategies to “facilitate the timely and efficient deployment of broadband facilities on Federal lands.”<sup>2</sup>

The Wireless Internet Service Providers Association (“WISPA”) supports the Commission’s important role in this process. As the trade association that represents approximately 700 providers of fixed wireless broadband services, WISPA believes its recommendations can inform the Commission’s participation in the Working Group to help create an environment more conducive to broadband deployment and to accelerate broadband accessibility, consistent with the objectives of the Executive Order.

The Executive Order correctly observes that “[w]hile broadband infrastructure has been deployed in a vast majority of communities across the country, today too many areas still lack adequate access to this crucial resource.”<sup>3</sup> Many of these areas are near the rural and remote areas fixed wireless Internet service providers (“WISPs”) serve. In many cases wired technologies do not extend to these areas, so residents of these areas may have no other means to receive broadband. Because the small communities WISPs serve are often in sparsely populated areas, many viable antenna sites are located on property managed by Federal agencies such as the Bureau of Land Management

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<sup>1</sup> Executive Order 13616, “*Accelerating Broadband Infrastructure Deployment*,” 77 Fed. Reg. 36903 (June 14, 2012) (“Executive Order”).

<sup>2</sup> *Id.* at Section 3(i).

<sup>3</sup> *Id.* at Section 1.

(“BLM”), the U.S. Forest Service, the National Park Service and others. From this perspective, WISPA is pleased to contribute to the record in this proceeding and thereby assist the Commission in its advisory obligations to the Working Group.

### ***Overview***

In connection with this letter, WISPA conducted a survey of its membership to identify specific challenges in obtaining access to Federal property for broadband infrastructure. The survey also asked the members to suggest recommendations that would improve their ability to deploy facilities from Federal property.

Not surprisingly, more than half of the respondents indicated that they have attempted to gain access to towers located on Federal and/or tribal lands. This confirms the President’s view that “decisions on access to Federal property and rights of way can be essential to the deployment of both wired and wireless broadband infrastructure.”<sup>4</sup> In WISPA’s experience, access to Federal property is often the difference between those communities that receive fixed broadband service and those that cannot.

### ***Challenges***

The survey respondents’ most significant concern was the length of time it often takes for them to secure access to tower sites on Federal and tribal property. In every case, WISPs indicated that it takes more than a year to locate, negotiate and obtain clearance to use Federal sites. In some cases, it has taken more than five years to obtain access to BLM sites. For WISPs that have ready access to equipment and often operate on unlicensed frequencies, access to Federal sites can be the biggest reason why some areas of the country lack fixed broadband service.

There appear to be many reasons for the excessive amount of time it takes to obtain access to Federal property. First, survey respondents reported that it is difficult to identify the location of existing available existing tower sites. Second, once the sites are identified, it can be time-consuming to locate the appropriate agency contact that can help drive the process. Third, and perhaps the largest problem, the negotiation process is open-ended – the agencies are not constrained by any time limits for negotiating access rights. In this regard, the experiences of WISPs are similar to those of other wireless operators.<sup>5</sup> Fourth, if multiple agencies are involved, interagency coordination often adds time and complexity to the site acquisition process.

Another factor contributing to the lengthy process is the time it may take for a WISP to complete an environmental impact study. While WISPA understands the need to perform these studies, the process often takes a great deal of time. In addition, the cost to undertake an environmental impact study may be prohibitive for a WISP.

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<sup>4</sup> *Id.*

<sup>5</sup> *See, e.g.*, Ex Parte Communication from Brian M. Josef, CTIA The Wireless Association®, WC Docket No. 11-59, dated July 25, 2012, at 6.

WISPs also reported that Federal agencies were not willing to make available defensible fire-space around towers. Given that first responders may rely on WISP service to address forest fires and other natural disasters on Federal lands, defensible fire-space will help ensure that communications facilities can remain available during emergencies.

### ***Recommendations***

To address these concerns, WISPA makes the following recommendations.

First, as it previously suggested in connection with the National Broadband Plan,<sup>6</sup> WISPA believes that Federal agencies should make available a consolidated database of all Federal property available for towers, easements and rights of way so that WISPs and others can determine the type of property, the location, parameters and other relevant information. In cases where more than one agency is involved, the database should identify the lead agency and person that will be in charge of the leasing process.

Second, WISPA recommends that the Working Group create a common master agreement that each agency would be required to use.<sup>7</sup> This would eliminate the need for each agency to have its own form(s) and create more predictability for prospective lessees of Federal property. By creating familiarity, the leasing process can proceed in a more expeditious, repeatable and simple manner. WISPA would be pleased to participate in the creation of a master agreement.

Third, the negotiation and permitting process should be streamlined, with deadlines established that correspond to the nature of the request. For instance, simple collocation on an existing tower should be a process that takes a relatively short amount of time, say, 90 days or so. Collocation that involves a structural analysis should have a longer timeline, and the process for new towers should be subject to a more lengthy – but time-defined – process.

Fourth, local population density around many federal locations in remote areas of the country is extremely low. Therefore, collocation, engineering and application process costs may prevent a rate of return necessary for companies to deploy broadband services in these areas. Flexibility in collocation rates is necessary during the negotiation process.

Fifth, many federal sites are difficult to access at various times of the year. Fires, windstorms, ice and heavy snowfall impact the service provider in difficult and costly ways including safety issues, logistical challenges, and serviceability. These financial challenges should also be recognized when contracts are negotiated.

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<sup>6</sup> See Comments of WISPA regarding Public Notice, “*Comment Sought on the Contribution of Federal, State, Tribal, and Local Government to Broadband*,” DA 09-2122, GN Docket Nos. 09-47, 09-51 and 09-137 (rel. Sept. 25, 2009) (“WISPA NBP Comments”), filed Nov. 6, 2009, at 3.

<sup>7</sup> See *id.* at 3-4.

*Conclusion*

WISPA looks forward to providing further input to the Commission as the Working Group identifies and addresses the important issues.

Pursuant to Section 1.1206 of the Commission's Rules, this notice is being filed via ECFS in the above-referenced proceedings. Please direct any questions regarding this notice to the undersigned.

Respectfully submitted,

*/s/ Elizabeth Bowles, President*

*/s/ Richard D. Harnish, Executive Director*

cc: Donald Johnson, FCC