

February 15, 2013

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Communication, WC Docket No. 11-59

Dear Ms. Dortch,

On February 13, 2013, Jonathan Campbell and the undersigned of PCIA—The Wireless Infrastructure Association (“PCIA”) and The DAS Forum, a membership section of PCIA, Robert Millar of Crown Castle, Jim Parker and Colleen Meisinger Thompson of AT&T and Amos J. Loveday, Ph.D. of Atchley Hardin Lane LLC (“Parties”) met with Jane Jackson, Jeffrey Steinberg, Maria Kirby, Dan Abeyta, Don Johnson, Mania Baghdadi, Stephen DelSordo, and Peter Trachtenberg of the Wireless Telecommunications Bureau. Parties provided an update on the scope of distributed antenna systems (“DAS”) and small cell rollout. Jim Parker noted that AT&T has had a 30,000% increase in mobile data traffic over the last six years and that the carrier plans to deploy over 10,000 new macro cell sites, over 1,000 DAS and over 40,000 small cells in order to provide high quality service to its customers. Parties also provided real examples of the difficulties met when adhering to the variety of demands of National Historic Preservation Act (“NHPA”) and National Environmental Policy Act (“NEPA”) compliance, and provided insight into the preservationist community’s understanding of these technologies. Finally, Parties discussed how policies can be adapted to streamline DAS and small cell deployment.

These potential approaches included:

- Clarification of Paragraph 63 of the 2004 Nationwide Programmatic Agreement Report and Order which discusses exclusions for attachments within the utility rights-of-way;¹
- An FCC declaration that DAS and small cell deployments are not federal undertakings and are thus excluded from Section 106 requirements under the Nationwide Programmatic Agreement (“NPA”);
- An FCC clarification of the term “tower” within the NPA noting that utility poles are not towers;

¹ “We do, however, adopt a limited exclusion, [. . .] for certain construction in or near communications and utility rights-of-way. Due to the increasing usage of wireless services and advances in technology, providers of certain types of service are increasingly finding it feasible to utilize antennas mounted on short structures, often 50 feet or less in height, that resemble telephone or utility poles. Where such structures will be located near existing similar poles, we find that the likelihood of an incremental adverse impact on historic properties is minimal. Moreover, it promotes historic preservation to encourage construction of such minimally intrusive facilities rather than larger, potentially more damaging structures. Therefore, the [NPA] excludes from Section 106 review facilities located in or within 50 feet of a right-of-way designated for communications towers or above-ground utility transmission or distribution lines, where the facility would not constitute a substantial increase in size over existing structures in the right-of-way in the vicinity of the proposed construction..*In re* Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, *Report and Order*, 20 FCC Rcd 1073, ¶ 63 (Sept. 9, 2004).

- Inclusion of DAS and small cell deployments within the “Note 1 exemption” of the FCC’s environmental rules.²
- FCC utilization of the “exempted category” provision of the Advisory Council on Historic Preservation (“ACHP”) rules to include DAS and small cell deployments.³

The attached photograph was circulated during the meeting for the purposes of showcasing a typical intersection and the included utility poles.

Pursuant to Section 1.1206 of the Commission’s rules, this letter is being filed via ECFS, and a copy will be provided via email to the attendees. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s/

D. Zachary Champ
Government Affairs Counsel
PCIA—The Wireless Infrastructure Association
901 N. Washington St., Suite 600
Alexandria, VA 22314

CC: Jane Jackson; Jeffrey Steinberg; Maria Kirby; Dan Abeyta; Don Johnson; Mania Baghdadi; Stephen DelSordo; Peter Trachtenberg

² “. . . aerial wire or cable over existing aerial corridors of prior or permitted use or the underground installation of wire or cable along existing underground corridors of prior or permitted use, established by the applicant or others. The use of existing buildings, towers or corridors is an environmentally desirable alternative to the construction of new facilities and is encouraged.” 47 C.F.R. § 1.1306 note 1. *See also* Comments of PCIA—The Wireless Infrastructure Association and The DAS Forum, WC Docket No. 11-59, at 46-47 (July 17, 2011) (“Broadband Acceleration Comments”).

³ ACHP rules (36 C.F.R. § 800.14 (c)) provide for the exemptions of Section 106 undertakings when “[t]he potential effects of the undertakings within the program or category upon historic properties are foreseeable and likely to be minimal or not adverse....”

