

February 19, 2013

Dan Abeyta
Assistant Chief, NEPA Adjudications
Spectrum and Competition Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: Comments for 2013 Nationwide Programmatic Agreement Annual Review

Dear Mr. Abeyta,

On behalf of CTIA—The Wireless Association (“CTIA”), I am writing in response to your request for input for the upcoming 2013 Nationwide Programmatic Agreement (“NPA”) Annual Review. Per your request we are providing both recommendations and a timeframe for action. CTIA notes that the Federal Communications Commission (“FCC”) has made expediting infrastructure build-out one of its highest priorities. We believe that the NPA was a significant step forward, but there remains much to be done and a short time in which to accomplish it.

The urgency stems from the licensees’ efforts to expeditiously build-out their networks to meet the public demand for more capacity and additional coverage. The suggestions provided below will require the FCC to take a leadership role while consulting with the other signatories. CTIA is confident that each of these steps will benefit the public significantly, and can be taken without diluting the protections afforded to historic properties by the NPA and Section 106.

Temporary Towers: CTIA appreciates the speed at which the FCC placed CTIA’s *Petition for Expedited Rulemaking* (“Petition”) on Public Notice. The Petition requests that a defined group of towers, those that will be used for no more than 60 days, will not require FAA marking or lighting, and will not be guyed so that wireless providers can assist law enforcement efforts and meet demand for cellular coverage and capacity at public events.

- Recommendation: CTIA notes that comments are due on February 25, 2013 and that reply comments are due on March 12, 2013. We urge the Commission to grant the blanket waiver (under Sections 1.3 and 1.925 of the Commission’s rules) for Temporary Towers so that they are exempt from the Antenna Structure Registration public notice requirements.

- **Timeframe:** CTIA believes that the record is sufficient to support the grant of an immediate blanket waiver. In the alternative, CTIA requests that the blanket waiver be granted no later than 30 days after the reply comments deadline. CTIA requests that the rulemaking be concluded by the end of 3Q 2013.

DAS and Small Cells: DAS and Small Cells technology have become an important part of a provider's design tool bag. They can be used to overcome topographical, coverage, and capacity issues that macrocells may not be able to effectively respond to. CTIA is concerned however that the utilization of these technologies is inadvertently being blunted by uncertainties surrounding the regulatory treatment of these technologies.

- **Recommendation:** CTIA recommends that the FCC determine that DAS and Small Cells were not intended to be subject to Section 106, or that it revise its rules to include DAS and Small Cells under the note 1 exception to Section 47 C.F.R. § 1.1306. These efforts should be done in concert with discussion with the NPA signatories.
- **Timeframe:** The Commission should issue a statement, order or rule change by the end of 2013.

Streamlining Procedures for Siting on Federal Lands/Buildings: Federal lands and buildings could play an important role in the wireless industry meeting broadband build-out objectives. Unfortunately, from the industry's perspective, numerous hurdles exist which thwart the ability of infrastructure providers to obtain access to federal lands and buildings in a timely manner. As a result, available sites for new builds and collocation lie fallow. CTIA believes that with the FCC's assistance this situation can be significantly improved.

- **Recommendation:** By working together, industry and the federal agencies can share concerns and squarely address the issues that keep federal siting a solution of last resort. Just as corporations conduct user-group based focus sessions to identify how their services can be improved, federal agencies could benefit from listening to infrastructure providers who have attempted to site or collocate on federal lands and buildings.

CTIA requests that the FCC proffer the following potential solutions:

- Create a standardized and repeatable process that contains concrete timelines for action.
- With infrastructure providers' input, create a streamlined process that simultaneously protects government interests while making federal siting more comparable to siting on private land.
- Within each agency, identify a core group of experts who would be charged with fulfilling the agency's role in the process.
- Identify a point of contact (*e.g.*, a federal siting ombudsman) that an infrastructure provider could approach to begin the siting process or help expedite the process if it bogs down.
- Establish clear lines of demarcation between agencies so that it is clear which agency will be the lead agency.

- Timeframe: CTIA understands that this matter involves a host of other federal agencies and thus that the timing is not within the FCC's control. CTIA believes that the FCC should, on an ongoing basis, proffer these solutions.

Towers Constructed Prior to the Effective Date of the NPA that Did Not Undergo Section 106 Review ("Twilight Towers"): There are instances in which it is discovered long after a tower is constructed, that the tower was constructed between the effective date of the 2001 Collocation NPA and the 2004 NPA without undergoing Section 106 review. If the current owner of the tower approaches the SHPO, the SHPO often states it is foreclosed, and suggests the matter be taken to the FCC. As the 2004 NPA did not establish a procedure to resolve these matters, and the FCC has no formal procedure to resolve these situations, the timeframe for resolution of the matter is far from certain.

- Recommendation: CTIA is willing to work with the signatories and others to develop a streamlined and expeditious process for addressing foreclosures, particularly for towers that are deemed essential for public safety, homeland security and broadband build-out.
- Timeframe: This issue merits immediate effort so that the results and benefits can be achieved within a timeframe that would allow private and public infrastructure providers to utilize the thousands of new collocation opportunities that would arise.

We intend that these underscore the time sensitivity of each request. CTIA believes that if the wireless industry, the FCC, ACHP, NCSHPO and other government agencies work in concert, real strides can be made in expediting build-out in 2013. Please contact me if you have any questions or would like to discuss this further.

Sincerely,

/s/ Brian M. Josef

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