

Docket 13-32
Biennial Review 2012
Wireless Telecommunications Bureau

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

Petition for Expedited Action)
To Facilitate Temporary Towers) RM No. 11688
WT 13-32
To: Chief, Wireless Telecommunications Bureau

COMMENTS OF NTCH, INC.

NTCH, Inc., by its attorneys, submits these brief comments in support of the CTIA – THE WIRELESS ASSOCIATION’s Petition for Expedited Rulemaking and the companion request for a short term waiver of the pre-construction rules applicable to temporary towers. As a constructor of numerous tower structures around the United States, NTCH has a good grasp of the difficulties that face tower firms who are trying to build towers on a tight schedule. This is certainly the case when temporary towers are constructed.

CTIA mentions high profile events like the Super Bowl or other major sporting or entertainment events as occasions which demand temporary structures which must often be built on short notice. There are in addition many more mundane circumstances which require the immediate construction of a tower – *e.g.*, the destruction of an existing tower by storms, traffic re-routing during construction, replacing antennas removed from a structure during maintenance, repairs such as reroofing a structure where there are antennas, the repainting a water tank with affixed antennas, or simply filling an immediate service gap left by a departing carrier. These situations arise not just once or twice a year but often. And when they do, the affected carrier or carriers must immediately try to plug the hole in service by erecting a temporary structure.

In circumstances where the proposed structure is less than 200 ft. tall but nevertheless requires FAA approval (such as when the facility is in the glide path of an airport), the FAA

approval process is relatively quick, but then the procedural hoops which the Commission's rules require a tower proponent to jump through consume a couple of additional months at least. This makes it impossible for a tower constructor to be able to deploy a temporary structure quickly to meet an immediate need even when the FAA has signed off on the proposal as presenting no hazard to air traffic. In fact, in some cases the emergency that generated the need for the temporary tower in the first place is *over* by the time the FCC process is complete. The result is that the public suffers a loss of service just when and where the need is greatest, potentially in derogation of public safety.

CTIA has carefully crafted its request to ensure that the relief requested is limited to a narrow range of circumstances where air traffic safety is fully protected. The towers that would fall within the ambit of the relief requested are effectively limited to shorter structures – usually cells on wheels – which are proximate to airports. Most other structures below 200 ft. would not require FAA approval and would therefore not be subject to the ASR process at all. CTIA has eliminated the concern that temporary structures might cause a hazard to air traffic by specifying that FAA approval must be obtained. The only thing that the CTIA petition eliminates is the need to go through the extensive and time-consuming local and federal public notice periods prescribed by the rules. Those procedures are unwarranted in the case of temporary structures because the structure is, by definition, not going to create any kind of long term problem, and the procedures designed to identify and evaluate problems associated with such a structure are therefore misplaced. As noted above, the time needed to navigate the public notice process often exceeds the length of the problem, thus rendering the process not only meaningless but counterproductive and possibly even damaging to public safety when the facility involved would fill a critical service hole.

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