

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies)	WT Docket No. 13-238
)	
Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting)	WC Docket No. 11-59
)	
Amendment of Parts 1 and 17 of the Commission’s Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications for Certain Temporary Towers)	RM-11688 (terminated)
)	
2012 Biennial Review of Telecommunications Regulations)	WT Docket No. 13-32
)	

REPLY COMMENTS OF COX COMMUNICATIONS, INC.

Cox Communications, Inc. (“Cox”) supports the Commission’s ongoing efforts to accelerate the deployment of small cell technologies, which, in turn, will further the deployment of better, faster and more robust wireless broadband services.¹ To achieve these goals the Commission should adopt its proposals to streamline the regulatory review of small cell and Wi-Fi deployments.

¹ Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, *Notice of Proposed Rulemaking*, 28 FCC Rcd 14238 (2013) (“*Wireless Siting NPRM*”).

INTRODUCTION

Broadband providers increasingly are relying on small cell and similar technologies, such as Wi-Fi access points, to meet the exploding demand for wireless broadband services. Cox, along with others in the cable industry, is investing in Wi-Fi network deployments.² Cox has also begun work on small cell technology deployments to be utilized by wireless providers in certain markets and has identified, like many of the commenters, the potential for delays as a result of local government regulation.³ Cox thus files these reply comments in support of the Commission's proposals to streamline the regulatory review of these critically important new technologies.

The access points at issue in this proceeding have, as explained by PCIA, "limited visual impacts, involve minimal ground disturbance, and generally occur in existing public rights of way where some ground disturbance is to be expected."⁴ Rules designed for massive macrocell towers are inapplicable to the much smaller antennas and related equipment now being deployed that have minimal environmental impacts.

I. THE COMMISSION SHOULD EXEMPT QUALIFYING SMALL CELL AND DAS DEPLOYMENTS FROM NEPA AND NHPA REVIEW

Cox agrees with PCIA that the Commission should create a categorical exclusion for non- or minimally-intrusive small cell and distributed antenna system ("DAS") deployments

² See, e.g., Shalini Ramachandran, *Five Cable Firms To Share Wi-Fi Hot Spots*, ALLTHINGD (May 21, 2012) <http://allthingsd.com/20120521/five-cable-firms-to-share-wi-fi-hot-spots/> (reporting on cable Wi-Fi roaming agreement among Comcast, Time Warner Cable, Cablevision Systems, Bright House Networks and Cox Communications).

³ See, e.g., Comments of AT&T, WT Docket No. 13-238, *et al.*, at 27-28 (Feb. 3, 2014) ("AT&T Comments"); Comments of Fibertech Networks LLC, WT Docket No. 13-238, *et al.*, at 4-6.

⁴ Comments of PCIA – The Wireless Infrastructure Association and The HetNet Forum, WT Docket No. 13-238, *et al.*, at 6-7 (Feb. 3, 2014) ("PCIA Comments"). These access points also serve consumers by improving wireless service indoors and in areas where buildings block signals from tall towers.

from review under both the National Environmental Protection Act of 1969 (“NEPA”) and the National Historic Preservation Act of 1966 (“NHPA”).⁵ Facility installations that meet the specified volume thresholds proposed by PCIA – i.e., 17 cubic feet in volume for equipment enclosures and 3 cubic feet in volume for antennas – pose no adverse effects to historical locations, and have no more than a *de minimis* impact on the environment.⁶ Given this, it is consistent with the public interest for the Commission to remove this barrier to infrastructure investment, and thereby achieving its statutory goal to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.”⁷

II. THE COMMISSION SHOULD ADOPT DEFINITIONS UNDER SECTION 6409(A) OF THE SPECTRUM ACT THAT ADVANCE WIRELESS BROADBAND SERVICE

Cox supports the Commission’s proposal to adopt definitions for the key terms of section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (the “Spectrum Act”), which provides that “a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”⁸ Cox in particular concurs with the Commission’s proposal that section 6409 should apply to “any Commission-authorized wireless transmission, licensed or unlicensed” and that a wireless tower or base

⁵ PCIA Comments at 6-7. As PCIA notes, commercial Wi-Fi deployments are not subject to NEPA and NHPA review. *Id.* at 11. Of course, nothing in this proceeding alters the current exclusion of Wi-Fi services from such review.

⁶ *Id.* at 7-8; *see also* AT&T Comments, at 11; Comments of CTIA – The Wireless Association®, WT Docket No. 13-238, *et al.*, at 21-22 (Feb. 3, 2014) (“CTIA Comments”); Comments of the Telecommunications Industry Association, WT Docket No. 13-238, *et al.*, at 3-4 (Feb. 3, 2014); Comments of the Utilities Telecom Council, WT Docket No. 13-238, *et al.*, at 4-6 (Feb. 3, 2014); Comments of Verizon and Verizon Wireless, WT Docket No. 13-238, *et al.*, at 10-11 (Feb. 3, 2014).

⁷ 47 U.S.C. § 1302(a).

⁸ *Id.* § 1455(a)(1).

station is one that is used for any such purpose.⁹ This definition, which broadly applies to all wireless services, licensed and unlicensed (such as Wi-Fi), is consistent with Congress’s clear intention to foster collocation and the Commission should adopt it.¹⁰

Cox also supports adoption of a definition of “wireless tower or base station” that would “encompass structures that support or house an antenna, transceiver or other associated equipment that constitutes part of a base station, *even if they were not built for the sole or primary purpose of providing such support.*”¹¹ Cable companies and other entities either are utilizing or may need to utilize various structures such as buildings, water towers, utility poles and streetlights to deploy Wi-Fi and small cell technologies. Using such structures fosters wireless broadband deployment while minimizing adverse environmental effects. Along these same lines, the Commission should also adopt Verizon’s proposal to define the term “existing wireless tower or base station” to include existing structures even if they do not “currently house wireless communications equipment.”¹² Restricting the term “existing wireless tower or base station” to only those structures that “currently” house wireless facilities will unnecessarily limit the benefits of section 6409(a). Defining “existing” as proposed by Verizon is also consistent with the Commission’s definition of collocation in the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.¹³ It would be consistent with the National Programmatic

⁹ *Wireless Siting NPRM*, 28 FCC Rcd at 14277, ¶ 104.

¹⁰ *Id.*

¹¹ *Wireless Siting NPRM*, 28 FCC Rcd at 14279, ¶ 108 (emphasis added); *see also* AT&T Comments at 22; CTIA Comments at 12.

¹² Letter from Tamara Preiss, Verizon, to Marlene H. Dortch, Federal Communications Commission, WC Docket No. 11-59, RM-11688, at 2 (filed Feb. 28, 2013).

¹³ 47 C.F.R. Part 1, Appendix B, Section I.A.

Agreement definition, and the goals of section 6409, to include structures even if not primarily or solely built to house wireless facilities or currently housing such facilities.

Finally, Cox concurs with PCIA that “a building or cabinet with equipment inside should be included in the definition of wireless tower or base station”¹⁴ and supports the definitions of “base station” and “transmission equipment” to include facilities necessary to provide wireless services from the location.¹⁵ The public interest benefits fostered by section 6409 would be illusory if the equipment necessary for the provision of wireless services were to be excluded from its scope.

¹⁴ PCIA Comments at 32.

¹⁵ Specifically, Cox supports defining “base station” to include transmitting, receiving, and all other equipment (including coaxial cable, primary power, and backup power) needed at a particular location, *see* CTIA Comments at 12, and similarly defining “transmission equipment” to encompass “antennas and other equipment associated with and necessary to their operation, including, for example, power supply cables and a backup power generator.” *Wireless Siting NPRM*, 28 FCC Rcd at 14277, ¶ 105.

CONCLUSION

To further the goal of increasing access to broadband, the Commission should adopt the provisions described above and streamline the regulatory review of these vital next-generation technologies.

Respectfully submitted,

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By: /s/_____

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