

September 5, 2014

VIA ELECTRONIC FILING

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

**Re: *Ex Parte Communication, Acceleration of Broadband Deployment by
Improving Wireless Siting Policies, WT Docket Nos. 13-238, 13-32;
WC Docket No. 11-59***

Dear Ms. Dortch:

On September 4, 2014, Natasha Ernst, Small Cell Deployment Director, and Jamie Hoare, Deputy General Counsel, of Fibertech Networks, Inc. (“Fibertech”), and T. Scott Thompson of Davis Wright Tremaine LLP, outside counsel for Fibertech, met with the following staff representatives of the Federal Communications Commission (FCC) Wireless Telecommunications Bureau: Jeffrey Steinberg, Chad Breckinridge, Patricia Robbins, Peter Trachtenberg, and Mania Baghdadi (via telephone).

At the meeting, Fibertech’s representatives summarized Fibertech’s comments in the above-referenced Dockets. Fibertech’s discussion followed the attached summary of issues, and the document was distributed to the Staff members present.

Respectfully submitted,

/s/ T. Scott Thompson

T. Scott Thompson
Counsel for Fibertech Networks, Inc.

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cc: Jeffrey Steinberg, FCC
Chad Breckinridge, FCC
Patricia Robbins, FCC
Peter Trachtenberg, FCC
Mania Baghdadi, FCC

Attachment

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ATTACHMENT – FIBERTECH EX PARTE SUMMARY



Background

- Fibertech is a new entrant “carrier’s carrier” in small cells/DAS
 - Constructed approximately 30 nodes in Ohio 2013
 - Currently has 855 nodes in process in five states: Ohio, Michigan, Indiana, Kentucky, & New York
 - Expanding with nodes in North Carolina in 2015
- The numbers of small cells/DAS are integral and expected to only increase
- Equal treatment of small cells/DAS as all other types of infrastructure in the public right of way is key to deployment

Expedited Environmental Review

- Fibertech has experienced a year-long delay for 8 nodes due to a Section 106 historic district trigger
- Section 106 triggers (historic district and pole age) are adding 3 to 6 months of delay to deployment
- NEPA triggers (new “tower” construction—e.g., metal pole structures, stealth poles, etc) are adding 6 to 9 months of delay to deployment
- Fibertech supports PCIA’s proposal to revise Section 1.1306 Note 1 to categorically exclude Communications Facility Installations.

Section 6409(a) Definitions

- Fibertech has experienced hostility towards small cells/DAS nodes from a number of municipalities and is concerned about needing to upgrade existing installations
- Small cells/DAS nodes should be included in the definition of “base station” with their equipment being “transmission equipment.”
- “Substantially change the physical dimensions” should not unintentionally penalize small base stations by using percentages
- Fibertech has 40 nodes with a very small footprint (4 cubic feet) and a percentage limitation will make additional radios or a battery backup unit impossible
- Fibertech supports having a not-to-exceed limit of 25 cubic feet for a node
- State and local governments should not be allowed to define what it means to “substantially change the physical dimensions”
 - Physical Dimensions do not include weight, visibility, or density.
 - Whether there is a substantial change in physical dimensions is not a subjective issue and cannot be measured by, for example, whether there is a significant impact on surroundings



Section 6409(a) Process & Timeframes

- Any state or local government review process should be administrative and must be non-discretionary
- Fibertech supports timeframes of 45 days for equipment replacements and 90 days for collocations with a “deemed granted” remedy
- Federal court is not a timely remedy and would create a patchwork of interpretation of Section 6409(a)

2009 “Shot Clock” Declaratory Ruling

- Fibertech’s small cells/DAS nodes are regularly collocated on existing structure, such as utility poles
- Clarification that these are “collocations” under the shot clock would be very helpful
- Fibertech is experiencing delays from a number of local governments, the worst hitting one year without being given permits for 14 nodes
- Going to federal court has not been a viable remedy because it would largely slow down the process even further
- “Deemed granted” is the only way to prevent delays for deployments