



September 18, 2014

**VIA ELECTRONIC FILING**

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

**Re: Ex Parte Communication: WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59**

Dear Ms. Dortch:

On September 16, 2014, Jonathan Campbell, D. Zachary Champ, and the undersigned of PCIA – The Wireless Infrastructure Association (“PCIA”) spoke via telephone with Chad Breckinridge of the Wireless Telecommunications Bureau. Consistent with its recommendations in the Broadband Acceleration docket,<sup>1</sup> PCIA emphasized that clear Federal Communications Commission (“FCC” or “Commission”) rules in this proceeding will promote broadband deployment, encourage capital investment in upgraded wireless infrastructure, and improve service coverage, capacity, and quality for consumers.

PCIA requested that the Commission streamline its environmental and historic review process for distributed antenna systems (“DAS”) and small cells by amending Note 1 to Section 1.1306 to categorically exclude facilities that meet a technology-neutral, volume-based definition.<sup>2</sup> Because these facilities have, at most, a *de minimis* effect on the environment, PCIA explained that the FCC has authority under Council of Environmental Quality (“CEQ”) regulations<sup>3</sup> and Advisory Council on Historic Preservation (“ACHP”) rules<sup>4</sup> to propose the exclusion. PCIA

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<sup>1</sup> *In re* Acceleration of Broadband Deployment by Improving Wireless Facility Siting Policies; 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; 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; 2012 Biennial Review of Telecommunications Regulations, *Notice of Proposed Rulemaking*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59, RM-11688, FCC 13-122 (rel. Sept. 26, 2013) (“NPRM”).

<sup>2</sup> See Letter from D. Van Fleet Bloys, PCIA–The Wireless Infrastructure Association, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59, (filed July 24, 2014); Comments of PCIA – The Wireless Infrastructure Association, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59, RM-11688, at 6-9 (Feb. 3, 2014) (“PCIA Comments”).

<sup>3</sup> PCIA Comments at 9-11; see 40 C.F.R. §§ 1500.4, 1500.5, 1508.4; Final Guidance for Federal Departments and Agencies on Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act, 75 Fed. Reg. 75,628 (Dec. 6, 2010). The FCC has already begun CEQ outreach, see NPRM at ¶ 13 & n.17.

<sup>4</sup> See 36 C.F.R. § 800.3(a)(1).

reaffirmed its support for the industry-supported dimensions set forth in the definition of Communications Facility Installations,<sup>5</sup> which finds additional record support in recent filings.<sup>6</sup> To remain future-proof, facilities that conform to the exclusion's intent but lie outside the volume calculation should be eligible for an accelerated waiver process.<sup>7</sup>

PCIA urged the Commission to adopt rules implementing Section 6409(a), providing clear definitions and application guidelines to ensure predictability for all parties when submitting an Eligible Facilities Request ("EFR").<sup>8</sup> Based on the reduced application requirements and streamlined review for EFR applications, PCIA reiterated that the FCC should require action on an EFR within a forty-five day time period.<sup>9</sup> Further, the FCC should define EFRs to include replacement structures, so long as the replacement does not substantially change the physical dimensions of the existing tower or base station, which satisfies such important public policy goals as encouraging investment, increasing reliability, and efficiently using existing sites.<sup>10</sup>

PCIA also outlined a revised proposal for "substantially change the physical dimensions":

(1) For utility infrastructure of all types, including, but not limited to, infrastructure supporting communications facilities of any type, water transmission or storage, or electrical transmission, substantially change the physical dimensions means:

(a) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas or clearance of electrical lines; or

(b) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(c) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna

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<sup>5</sup> See PCIA Comments at 7-8 (allowing for an equipment enclosure no larger than seventeen cubic feet, an antenna enclosure no larger than three cubic feet, and delineating additional equipment excluded from the volume limitations); see also Letter from D. Zachary Champ, PCIA – The Wireless Infrastructure Association, WC Docket No. 11-59, GN Docket No. 12-354 (filed July 22, 2013) (introducing the volume-based exemption).

<sup>6</sup> See Letter from Robert Millar, Crown Castle, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 13-238, WC Docket No. 11-59, (filed Sept. 10, 2014); Letter from Scott Thompson, Fibertech Networks, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 13-238, 13-32, WC Docket No. 11-59, (filed Sept. 5, 2014).

<sup>7</sup> Reply Comments of PCIA – The Wireless Infrastructure Association, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59, RM-11688, at 7-8 (Mar. 5, 2014) ("PCIA Reply Comments").

<sup>8</sup> See PCIA Comments at 24-53; PCIA Reply Comments at 15-26.

<sup>9</sup> PCIA Comments at 48.

<sup>10</sup> *Id.* at 37.

may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(d) The mounting of the proposed antenna would expand the boundaries of the leased or owned property surrounding the current tower by more than thirty feet in any direction or involve excavation outside these expanded boundaries or outside any existing access or utility easement related to the site.

(2) For buildings and all other structures not included in Section (1), substantially change the physical dimensions means:

(a) The mounting of the proposed antenna will protrude more than six feet from either the building's façade or other structure's outer dimensions, including any appurtenances on the building or other structure; or

(b) The mounting of the proposed antenna will increase the existing overall height of the building or other structure, measured from the highest point of the building or other structure including any appurtenances, by more than fifteen feet or 10%.

This industry-supported definition hews closely to PCIA's original proposal, which draws from existing law and policy where possible; this revised definition, however, allows for the highest, best use of utility infrastructure while crafting a new, tailored standard for buildings and other non-utility structures.<sup>11</sup> PCIA also highlighted its recommendation that the Commission allow only changes up to the "substantial change" standard, tying the baseline tower size to the structure's last zoning approval or the date of the promulgation of FCC rules, whichever is later, to avoid an unlikely scenario in which successive insubstantial changes allow the tower to impermissibly grow in size.<sup>12</sup>

Pursuant to Section 1.1206 of the FCC's rules, this notice will be filed via ECFS and a copy will be provided via email to the attendees. Please contact the undersigned with any questions.

Sincerely,



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CC: Roger Sherman; Chad Breckinridge

<sup>11</sup> See *id.* at 37-40; PCIA Reply Comments at 19-20. See also Letter from Tamara Preiss, Verizon, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 13-238, (filed Sept. 17, 2014) (advancing a similar proposal for "substantially change the physical dimensions").

<sup>12</sup> See PCIA Comments at 38-39.