



January 16, 2015

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 2015 Nationwide Programmatic Agreements Annual Review

Dear Mr. Abeyta,

On behalf of PCIA – The Wireless Infrastructure Association, I write to provide comments in advance of the upcoming Nationwide Programmatic Agreement (“NPA”) Annual Review. PCIA and its membership commend the Federal Communications Commission (“FCC” or “Commission”), the Advisory Council on Historic Preservation (“ACHP”) and the National Conference of State Historic Preservation Officers (“NCSHPO”) for their continued efforts to revise and improve NPA processes.

In addressing matters included within the NPA, the signatories should:

I. Utilize a Program Comment to Address the Twilight Tower Issue

Together, the NPA signatories can free commercial, state, municipal, and public safety towers from a state of regulatory limbo that precludes their use as platforms for thousands of collocations. Doing so would squarely meet the intent of the NPA by providing greater opportunity to utilize existing structures. As the signatories are by now aware, “Twilight Towers” are towers built between March 16, 2001 and March 7, 2005, which were not specifically required to undergo a Section 106 of the National Historic Preservation Act (“Section 106” or “NHPA”) review, and towers for which the Section 106 review documentation is simply unavailable.

For its part, PCIA has worked with its membership in preparation of a potential data gathering effort to define the scope of the problem and anticipates it will be able to provide the FCC with the information it requires to take further action in 2015. With the necessary data in hand, it is our hope that we will make significant progress in curing the Twilight Tower issue this year.

II. Adopt Broader Exclusions for Distributed Antenna Systems (“DAS”) and Small Cells from NEPA and Section 106 Requirements

In October 2014, the FCC released a Report and Order (“Order”) updating Commission review processes under the National Environmental Policy Act (“NEPA”) and Section 106 with an emphasis on accommodating new wireless technologies that use smaller antennas and more compact radio equipment to provide mobile voice and

broadband service.¹ With respect to smaller communications facility installations, the Order (1) amends the existing NEPA categorical exclusion for antenna collocations on buildings and towers to clarify that it includes equipment associated with the antennas (such as wiring, cabling, cabinets, and backup-power equipment), and that it also covers collocations in a building's interior, and; (2) amends the NEPA categorical exclusion for collocations to cover collocations on structures other than buildings and towers; and (3) adopts a new NEPA categorical exclusion for deployments in active utility or communications rights-of-way (including deployments of new poles), where the deployment does not constitute a substantial increase in size over the existing utility or communications uses.

Under the NHPA, the FCC adopted measures to update the historic preservation review process under Section 106. Relying on its authority under the rules of the ACHP, the Commission adopted two limited exclusions from Section 106 review, one applicable to utility structures specifically and the other to non-tower structures in general, including buildings.

The Order made critically important modifications to these review processes, greatly improving the siting environment for deploying coverage-broadening and capacity-strengthening DAS and small cells. As the Commission recognized, however “there are ways to make the historic preservation review process in particular even more efficient.”² PCIA supports subsequent efforts by the Commission to work with ACHP and other applicable stakeholders to develop a program alternative, “that will further facilitate review of DAS and small-cell deployments by better focusing review on those deployments that are likely to raise concerns, including on structures other than utility poles and transmission towers even if there is no existing antenna on the structure.”³ Further, PCIA is committed to ensuring that the signatories have the requisite data necessary from its members to meet the expected conclusion of the process, between 18 and 24 months from the release of the Order.

III. Addressing Responsiveness of Native Nations and Siting Fees

The wireless infrastructure industry continues to face serious impediments to the deployment of broadband due to the challenges of working with the various native nations throughout the country. One of the most significant hurdles is timing. Applications for the installation of broadband facilities are often stymied due to a lack of response from Tribal Historic Preservation Offices (“THPO”). Further, the Tower Construction Notification System (“TCNS”), while helpful, designates areas of interest at a highly macro level. While the wireless infrastructure industry seeks to be an informed and sensitive partner with native nations, the broad account for areas of cultural significance adds a layer of complexity to the siting process that requires additional time to navigate and expense to coordinate.

Native nations have also begun to assess greater application fees. These fees are disconnected from a clear rationale or schedule accounting for the services such fees provide. PCIA recommends that the signatories investigate ways to provide greater standardization of fees across the country and encourage a cost-based calculation for these fees.

¹ Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, *Report and Order*, 29 FCC Rcd 12865 (2014) (“2014 Infrastructure Order”). The section concerning DAS and small cells becomes effective on February 9, 2015. *See* 80 Fed. Reg. 1238 (Jan. 8, 2015) (to be codified at 47 C.F.R. pts. 1 and 17).

² 2014 Infrastructure Order ¶ 28.

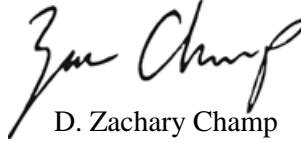
³ *Id.*

IV. Replacement Tower Exemption

Finally, the 30 foot “allowance” provided for replacement towers under the NPA should also apply to the compound and leased area. When an applicant is simply expanding the compound for a collocation, it should not have to undergo Section 106 review when a similarly situated replacement tower would not require review.

We appreciate the opportunity to provide comment in this discussion and look forward to working with the signatories of the NPA on these issues.

Best Regards,

A handwritten signature in black ink, appearing to read "Zac Champ". The signature is fluid and cursive, written over a white background.

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