

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

In the Matter of)
)
Public Notice Announcing Draft Release of) solutions2020@fcc.gov
Commissioner Clyburn's #Solutions2020 Call)
to Action Plan)
)
Streamlining Deployment of Small Cell) WT Docket No. 16-421
Infrastructure)

COMMENTS OF CTIA ON THE
#SOLUTIONS2020 CALL TO ACTION PLAN

I. INTRODUCTION.

CTIA^{1/} submits these comments in response to the Public Notice seeking comment on Commissioner Mignon Clyburn's #Solutions2020 Call to Action Plan ("Action Plan").^{2/} CTIA strongly supports the goal of delivering affordable, diverse, and competitive communications services to all Americans. Consistent with the goal of the Action Plan and similar ongoing efforts undertaken by the Commission, CTIA urges the Commission to:

- Streamline the permitting process for wireless infrastructure siting, including by adopting the proposals outlined in the recently released Small Cell Notice;^{3/} and
- Encourage state and local governments to adopt pole attachment and right-of-way policies (including for municipal and co-operative utilities) that ensure

^{1/} CTIA® (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association's members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

^{2/} *Commissioner Mignon Clyburn Releases Draft #Solutions2020 Call to Action Plan*, Public Notice (rel. Dec. 19, 2016) ("Public Notice").

^{3/} *Comment Sought on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies*, Public Notice, DA 16-1427 (rel. Dec. 22, 2016) ("Small Cell Notice").

nondiscriminatory access, mandatory timelines for action, just and reasonable rates, and an effective complaint process.

By taking these steps, the Commission can help ensure that the wireless industry can rapidly and efficiently deploy the wireless services that consumer increasingly require and help position the United States as a world leader in next-generation wireless connectivity.

II. THE COMMISSION SHOULD FACILITATE FEDERAL, STATE, AND LOCAL COOPERATION TO STREAMLINE INFRASTRUCTURE SITING POLICIES.

As Chairman Wheeler and Commissioners Clyburn, Pai, and O’Rielly have all noted, efficient deployment of wireless network infrastructure is dependent on cooperation among the Commission, state and local governments, and wireless providers.^{4/} Although Congress, the Commission, and state and local governments have taken important measures to remove impediments and speed local siting and environmental review, including through the recent Amended Collocation Agreement to streamline Section 106 review for Distributed Antenna Systems (“DAS”) and small cell facilities, obstacles remain. Commission efforts to improve infrastructure siting policies at every level, and not solely the federal level, are thus critical to robust network development. CTIA therefore urges the Commission to drive cooperation between federal, state, and local governments to expedite local siting review, facilitate antenna siting on public and private lands, and streamline environmental and historic preservation review, including through adoption of relevant proposals in the Small Cell Notice released in December 2016.

^{4/} Public Notice at 5; *see also, e.g.*, Prepared Remarks of FCC Chairman Tom Wheeler at the National Press Club, The Future of Wireless: A Vision for U.S. Leadership in a 5G World, Washington, D.C., at 5-6 (June 20, 2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-339920A1.pdf; Remarks of FCC Commissioner Ajit Pai at the Brandywine, A Digital Empowerment Agenda, Cincinnati, OH, at 6-7 (Sept. 13, 2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-341210A1.pdf (“Digital Empowerment Agenda”); Remarks of FCC Commissioner Michael O’Rielly Before Hogan Lovells’ Technology Forum: “The 5G Triangle,” at 2 (May 25, 2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-339558A1.pdf.

Streamlining permitting for DAS and small cells in particular is especially important. These facilities are essential to the successful deployment of 5G networks, and providers will need to deploy tens of thousands of them. These small wireless facilities raise few, if any, of the concerns that may be raised by macro-sites. Indeed, these facilities have been designed and manufactured explicitly to be attached to existing structures such as utility poles and have been widely and safely deployed. In most cases, all required gear for the attachment can be mounted safely on the existing structure, leaving no “footprint” in the right-of-way or surrounding property and limiting the environmental impact.^{5/}

Importantly, DAS and small cell facilities provide substantial benefits to both urban and rural consumers. In addition to increasing coverage and providing much needed capacity in urban areas, low-powered technologies such as DAS and small cells provide carriers with lower-cost options for increased deployments in rural areas, which in turn increases competition in rural markets.^{6/} And low-powered technologies offer more flexible siting options than macro-cells for both national and regional carriers that are deploying mobile broadband in rural and remote areas, which can reduce deployment costs and increase scalability. Streamlining siting policies for DAS and small cells will therefore benefit urban and rural Americans alike.

Yet, the costs and delays resulting from the web of federal, state, local, environmental, cultural, and historic review processes that must be undertaken when deploying wireless infrastructure will only be compounded as providers seek to deploy the numerous small sites needed for 5G and for meeting increasing network capacity needs. These costs and delays will only further shift resources away from wireless network investment and innovation. As

^{5/} See Petition of CTIA – The Wireless Association to Initiate a Proceeding to Update and Clarify Wireless Pole Attachment Protections, at 7 (N.Y. PSC May 20, 2016).

^{6/} See Comments of CTIA, WT Docket No. 16-137, at 85 (filed May 31, 2016).

Commissioner Pai recently stated, this “creaky regulatory approach . . . holds American consumers and businesses back.”^{7/}

CTIA therefore appreciates that the Commission recently initiated a proceeding to explore local siting processes. On December 22, 2016, the Wireless Telecommunications Bureau issued the Small Cell Notice, which seeks comment on local review of wireless facility siting applications and local requirements for gaining access to rights of way.^{8/} While the Small Cell Notice appropriately seeks responses to a series of broad questions related to local permitting,^{9/} it also seeks information that may help address permitting of small cells and DAS facilities. Specifically, it seeks information on (i) the process for reviewing and making decisions on siting applications for small wireless facilities (including DAS and small cells) and the extent to which siting review procedures for small wireless facilities are the same as those in place for macro-cells; (ii) whether presumptive timeframes for review of siting applications previously established by the Commission are reasonable in the small cell context; and (iii) whether the timeframes for review should vary depending on whether a state or local government receives siting requests proposing one small cell deployment at a time or consolidated

^{7/} See Digital Empowerment Agenda at 7.

^{8/} See generally Small Cell Notice.

^{9/} For instance, the Small Cell Notice seeks comment on, among other things, (i) local government actions (or inaction) that have the effect of hindering the introduction of new services, obstructing efforts to improve existing services or make networks more robust, or deterring prospective service providers from entering markets; (ii) the time typically elapses between the filing of complete facility siting applications and the approval or denial of such applications by local authorities; (iii) how often siting applications are denied and for which reasons; (iv) discrimination in the siting application process; (v) whether and how the Commission should interpret relevant statutes for the purpose of ensuring that fees imposed on providers for using rights of way are nondiscriminatory and do not exceed fair and reasonable compensation; and (vi) whether the Commission should take additional steps, by interpreting relevant statutory provisions, to help promote deployment of needed wireless infrastructure. CTIA looks forward to providing the Commission with robust comments in response to the Small Cell Notice.

applications that request authority for a single provider to deploy multiple small cells.^{10/} CTIA is hopeful that the information generated through the Small Cell Notice will assist the Commission and state and local governments in streamlining future deployment of wireless infrastructure, and looks forward to thoughtfully responding to the questions raised in that proceeding.

III. THE COMMISSION SHOULD ENCOURAGE STATE AND LOCAL REFORM OF POLE ATTACHMENT REQUIREMENTS.

As noted in the Action Plan, ensuring deployment of next-generation communications service requires first ensuring that there is service.^{11/} And, in order to ensure that there is service, barriers to deployment, including today's pole attachment rules and practices, must be lowered. Although traditional wireless antennas located on towers and other tall structures will continue to play a key role in wireless networks, next-generation networks will require new approaches to infrastructure development,^{12/} since building 5G networks means use of smaller antennas that serve smaller areas.^{13/} Sound infrastructure policies that facilitate placement of small antennas is therefore essential to the success of 5G.

^{10/} Small Cell Notice at 11-12.

^{11/} Public Notice at 3.

^{12/} *Enabling the Wireless Networks of Tomorrow: Rules of the Road for Pole Attachments in States Across America*, CTIA, at 2 (2016), <http://www.ctia.org/docs/default-source/default-document-library/enabling-the-wireless-networks-of-tomorrow.pdf> (“*Enabling the Wireless Networks of Tomorrow*”).

^{13/} See, e.g., *Small Cell Siting: Regulatory and Deployment Considerations*, 5G AMERICAS AND SMALL CELL FORUM, Executive Summary (2016) (“Small cells, then, can achieve the mobile broadband objectives set by governments and cities round the world more effectively than traditional networks alone. They are a critical enabler of 4G densification and of 5G[.]”); Kelly Hill, *Exploring the Role of Small Cells in 5G*, RCR WIRELESS NEWS (Mar. 24, 2015), <http://www.rcrwireless.com/20150324/featured/small-cells-in-5g-tag6#prettyPhoto> (discussing statements by Nokia Networks, SK Telecom, the Next Generation Mobile Network Alliance, and Ericsson’s Radio Access Group stressing the importance of small cells for 5G networks).

Utility poles (*i.e.*, existing, widespread, cost-effective infrastructure located both near to population and low to the ground) make perfect homes for small wireless facilities.^{14/} In order to deploy small facilities on poles, wireless providers must rent space from utilities. But, some utilities engage in pole attachment practices that cause significant delay in network improvement and expansion. For instance, some attempt to delay access by (i) not providing wireless carriers with their standard pole attachment agreement in a timely manner; (ii) charging exorbitant rates for rent and applications or excessive “administrative fees” before agreeing to commence negotiations; or (iii) denying access to poles for insubstantial or unsupported reasons. Further, many utilities discriminate against wireless attachers, unreasonably charging them higher rates than charged to wireline or cable attachers.^{15/}

Although the Commission has taken some steps to address these issues and reduce barriers to network deployment through pole attachment rules, those rules do not govern in every state and do not apply to municipal or co-operative utilities. Under Section 224 of the Communications Act, states can certify that they regulate pole attachments (*i.e.*, “reverse preemption” states).^{16/} In reverse preemption states, it is the state, rather than the FCC, that is responsible for ensuring attachers are able to exercise their rights. Such states, which cover

^{14/} See *Enabling the Wireless Networks of Tomorrow*, at 2-3; Preliminary Written Comments of CTIA – The Wireless Association®, Maine Public Utilities Commission Docket No. 2015-00295, at 10-11 (filed Nov. 2, 2015).

^{15/} See *Enabling the Wireless Networks of Tomorrow*, at 5; Jamie Hastings, *How Utility Poles are Vital to Your Wireless Usage*, CTIA (May 4, 2016), <http://www.ctia.org/industry-data/blog-details/blog-posts/how-utility-poles-are-vital-to-your-wireless-usage>.

^{16/} See 47 U.S.C. § 224(c).

roughly half the U.S. population,^{17/} are also responsible for promulgating rules implementing Section 224 and resolving disputes over attachments.^{18/}

Consistent with the Action Plan and similar calls made by Commissioner Pai,^{19/} the Commission should take further steps to address problematic pole attachment practices. Specifically, to enable next-generation network deployment and increase the availability of and access to service, the Commission should encourage reverse preemption states to amend their laws to provide for: (i) nondiscriminatory access to utility poles, including pole tops, on rates, terms, and conditions that are equivalent to those available to other classes of attachers; (ii) mandatory timelines for action by utilities (*e.g.*, surveys, make ready, access for attachment); (iii) just and reasonable rates, with rates presumed reasonable if they are calculated in accordance with the rate formulae specified for telecommunications attachments in the Commission's rules; and (iv) effective pole attachment complaint processes with specific deadlines for resolution of cases. In addition, the Commission can and should encourage states, including non-reverse preemption states, to exert jurisdiction over pole attachment rates and policies with municipal and co-operative utilities to help reduce potential barriers to deployment.

By supporting state efforts to adopt pole attachment reforms, the Commission will reduce a critical barrier to deployment and thereby promote the availability of next-generation service to all Americans. The Commission should take action now to further these efforts.

^{17/} See *Enabling the Wireless Networks of Tomorrow* at 5.

^{18/} See 47 U.S.C. § 224(c).

^{19/} See Digital Empowerment Agenda at 7-8.

IV. CONCLUSION.

CTIA appreciates this opportunity to comment on ways in which the Commission can streamline its wireless infrastructure policies so that America can be a world leader in next-generation wireless connectivity. By facilitating federal, state, and local cooperation to streamline infrastructure siting policies and encouraging state and local reform of pole attachment rules, the Commission can help ensure achievement of this goal. CTIA looks forward to working with the Commission on these important issues.

Respectfully submitted,

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