

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of State and Local)	WT Docket No. 19-250
Governments' Obligation to Approve)	
Certain Wireless Facility)	
Modification Requests Under Section)	
6409(a) of the Spectrum Act of 2012)	

**COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA-The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued by the Federal Communications Commission (“Commission”) in the above-captioned proceeding.² NTCA supports the proposals made in the NPRM, which seek to clarify or amend certain Commission rules implementing Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”).³ The clarifications/amendments are consistent with the Spectrum Act and would remove unnecessary but critical barriers to improved and expanded wireless service (including emerging 5G services).

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

² *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, WT Docket No. 19-250, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 20-75 (rel. Jun. 10, 2020) (“Declaratory Ruling” or “NPRM”).

³ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, title VI (Spectrum Act of 2012), § 6409(a), 126 Stat. 156 (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)).

With respect to the proposals in the NPRM, NTCA members strongly support efforts to reduce unnecessary barriers to wireless facilities deployment. While first and foremost wireline service providers, many NTCA members also use fixed wireless broadband from time to time as one of many “tools in the toolkit” to deliver service to subscribers. Some NTCA members also have long operated mobile wireless service in their rural service areas, and placement of towers, transmission equipment and attendant equipment (cabinets, etc.) necessary to make such services available to subscribers is yet another challenge they face atop difficult terrain and low density levels. Thus, any Commission action to remove barriers to the expanded use of existing towers (by facilitating colocation of wireless equipment and as envisioned by Section 6409(a) of the Spectrum Act) is welcome.

As the WIA Petitions for Rulemaking and Declaratory Ruling noted,⁴ regulations implementing Section 6409(a) of the Spectrum Act have created confusion and thus delayed or even prohibited providers from moving forward with the very colocations that the statutory provision was intended to promote. While the Declaratory Ruling adopted several important clarifications to effectuate the purpose of Section 6409(a), additional steps as proposed by WIA in its Petition for Rulemaking and in the NPRM are logical further steps.

NTCA therefore supports the NPRM proposals to amend and clarify the Commission’s rules implementing Section 6409(a). Specifically, the Commission should clarify that Section 1.6100(b)(7)(iv) of its rules is applicable to modifications outside the *current* boundaries of a tower site and not constrained by its original boundaries. As WIA states, local decisions to apply Section 6409(a) only to the compound or leased area as of the time of the original siting approval

⁴ Petition of Wireless Infrastructure Association for Declaratory Ruling, WT Docket No. 19-250 (fil. Aug. 27, 2019); Petition of Wireless Infrastructure Association for Rulemaking, File No. RM-11849 (fil. Aug. 27, 2019).

for the tower limits the number of sites available for Section 6409(a) treatment. The Commission should further amend its rules to state that a modification to an eligible support structure is not a “substantial change” to its physical dimensions if it “entails excavation or facility deployments at locations of up to 30 feet in any direction outside the boundaries of a macro tower.”⁵ Like other wireless providers, NTCA members often find that colocations on towers require the additional installation of equipment sheds/cabinets and/or other facilities necessary to support transmission equipment. This has become increasingly difficult as towers built to hold one carrier’s facilities may be used to support those utilized by multiple wireless providers. Any steps to extend the life of existing towers is therefore not only consistent with the goals of Section 6409(a), but would limit the need for newly constructed facilities as consumers’ use of wireless services increases, and both the clarification to the definition of “current site” as well as the proposed amendment to the Commission’s rules for “substantial changes” will effectuate that result.

Finally, it is important that the Commission view infrastructure deployment more generally, and emerging 5G services specifically, with a more holistic view of the barriers providers face in terms of rolling out new and upgraded service. Put another way, a “wireless needs wires” view of the barriers to infrastructure deployment is needed here. Of course, the Commission’s jurisdiction is limited with respect to removing wireline carriers’ barriers to deployment (such as environmental and historic preservation reviews that fall under the purview of other agencies). NTCA members working to push fiber deeper into their networks to meet Universal Service Fund buildout obligations and/or to support wireless services (those operated

⁵ NPRM, para 53.

by affiliates or other providers) would benefit greatly from the same kind of streamlining measures that the Commission has enacted with respect to the deployment of facilities necessary to support spectrum-based services.⁶ Indeed, consumers' access to wireless services will be limited in the absence of the fiber backhaul necessary to make them a reality. Thus, the Commission should at the very least lend its expertise to other federal agencies and urge them to use the former's infrastructure streamlining efforts as a model for similar measures that can facilitate deployment of fiber and other facilities necessary for wireline and wireless services alike while also protecting the environment and historic properties.

Respectfully submitted,



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⁶ See Declaratory Ruling. See also, *Wireless Telecommunications Bureau Announces Execution of Second Amendment to the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas*, Public Notice, Federal Communications Commission, DA 20-759 (rel. Jul. 20, 2020).