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To:	BOCrfc2015
Cc:	Zachary Champ; Van Bloys
Subject:	Broadband Opportunity Council, Comments of PCIA
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National Telecommunications and Information Administration, U.S. Department of Commerce
Attn: Broadband Opportunity Council

To Whom it May Concern,

PCIA submits the attached comments in response to the Departments of Agriculture and Commerce Request For Comment on the Broadband Opportunity Council.

Please feel free to contact the undersigned with any questions.

Respectfully,

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Before the
RURAL UTILITIES SERVICE
&
NATONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
WASHINGTON, DC

In the Matter of	)	Docket No. 1540414365-5365-01
	)	
Broadband Opportunity Council Notice and Request for Comment	)	
	)	
	)	
	)	
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To: The Agencies

COMMENTS OF PCIA – THE WIRELESS INFRASTRUCTURE ASSOCIATION ON THE DELIBERATIONS OF THE BROADBAND OPPORTUNITY COUNCIL

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June 10, 2015

INTRODUCTION

PCIA – The Wireless Infrastructure Association ("PCIA")[1] hereby submits these comments on behalf of its members in response to the Rural Utilities Service and the National Telecommunications and Information Administration request for public comment to inform the deliberations of the Broadband Opportunity Council ("Council"). PCIA commends the Council for its efforts to engage industry and other stakeholders in identifying solutions to increase broadband deployment, adoption, and competition. PCIA continuously supports efforts to improve broadband infrastructure deployment, and, therefore, offers these comments on steps the Council should take to reach its objectives.

DISCUSSION

I. THE COUNCIL SHOULD PRIORITIZE AND FACILITATE BROADBAND DEPLOYMENT ON FEDERAL LANDS

The federal government owns or administers nearly thirty percent of all land in the United States, including thousands of buildings, and funds state and local transportation infrastructure. This includes lands and properties under the jurisdiction of the Department of Agriculture, Department of the Interior, all branches of the military within the Department of Defense, and others. However, national and regional wireless and wireline broadband providers currently face significant challenges when working to secure leases, easements or other access to federal rights-of-way and buildings to deploy broadband infrastructure. Predictability and consistency are vital to network planning and investment in any arena, but this need is amplified when deploying broadband on federal property, which can require interagency review and coordination.

[1] PCIA – The Wireless Infrastructure Association is the principal organization representing the companies that build, design, own and manage telecommunications facilities throughout the world. Its over 200 members include carriers, infrastructure providers, and professional services firms.

Congress and the White House have previously acted to streamline broadband deployment on federal lands. Sections 6409(b)–(c) of the Middle Class Tax Relief and Job Creation Act of 2012,[2] enacted in early 2012, addressed access to federal lands for the deployment of wireless broadband facilities, including requirements that the General Services Administration develop application forms, master contracts, and cost-based fees for such access. In June 2012, the Obama Administration published an executive order, "Accelerating Broadband Infrastructure Deployment" ("Executive Order").[3] The Executive Order established a Broadband Deployment on Federal Property Working Group, "to ensure a coordinated and consistent approach in implementing agency procedures, requirements, and policies related to access to Federal lands, buildings, and rights of way, federally assisted highways, and tribal lands to advance broadband deployment."[4] These types of deployments, however, could benefit from additional efficiencies.

The March 2015 Presidential Memorandum "Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training" establishing the Broadband Opportunity Council is a step forward towards increased broadband adoption.[5] The Council's composition of twenty-five executive departments and agencies

[2] Middle Class Tax Relief and Job Creation Act of 2012, 112 Pub. L. 96, *codified at* 47 U.S.C. 1455(a).
[3] Accelerating Broadband Infrastructure Deployment, Exec. Order No. 13616, 77 Fed. Reg. 36903 (Jun. 14, 2012). See 41 C.F.R. §§ 102-79.70–.100; *see also*, President William J. Clinton, Memorandum on Facilitating Access to Federal Property for the Siting of Mobile Services Antennas, 31 WEEKLY COMP. PRES. DOC. 1424 (Aug. 10, 1995).
[4] Accelerating Broadband Infrastructure Deployment, Exec. Order No. 13616, 77 Fed. Reg. 36903 (Jun. 14, 2012). The Working Group consists of representatives from the Department of Defense, the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Transportation, the Department of Veterans Affairs, and the United States Postal Service. *Id.* at 36903. Representatives from the Federal Communications Commission, the Council on Environmental Quality, the Advisory Council on Historic Preservation, and the National Security Staff, among others, are part of the Working Group "to provide advice and assistance." *Id.* at 36903–04.
[5] Memorandum for the Heads of Executive Departments and Agencies, *Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training*, March 23, 2015, *available at* https://www.whitehouse.gov/the-press-office/2015/03/23/presidential-memorandum-expanding-broadband-deployment-and-adoption-addr.

provides an important opportunity to improve upon the coordination necessary to expand broadband deployment on federal lands.

A. Creating knowledgeable and trained points of contact within agencies

When applying to site facilities on federal lands, PCIA members have encountered applications that are either never accepted, due to lack of understanding or resources at the field office level; or stall for months at a time, providing few meaningful status updates to the applicant. To ensure applications are moving forward and maximize efficiency, agencies should designate an expert agency staff member with appropriate training and knowledge of the importance of broadband access on federal lands to oversee application processing. Moreover, agencies should endeavor to improve on-the-ground training on application processing and communications. Each agency should be equipped to respond to applicants in a timely manner. Training should include teaching staff the proper application of controlling regulation and measures to ensure consistent implementation. In addition to ensuring efficient application processing, each agency should also identify a direct-reporting lead who can effectuate these strategies in a results-oriented manner to achieve increased deployment, including serving as the point of contact to escalate applications that get delayed.

B. Instituting a standardized fee schedule, longer lease terms, and automated lease term renewals

PCIA members spend unnecessary time negotiating site fees through a cumbersome valuation analysis with few net benefits to the landholding agency; often, these protracted negotiations are reopened only a few years later due to short lease or easement terms. By establishing a standardized, publically available fee schedule, based on prevailing market rates,

coupled with longer lease or easement terms containing an expectancy of renewal, agencies can make the process for siting on federal lands more efficient and predictable for all parties.

Agencies should publish a public fee schedule outlining the costs associated with granting property interests to industry to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.

Consistent and longer lease terms with an expectancy of renewal for facilities sited on federal property would improve broadband deployment. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit wireless facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireless installations, but that easements are an acceptable legal transaction for the placement of wireless facilities on federal property. Agencies should be notified that to minimize the cost—on both the agency and the provider—of future applications, and given the extensive capital investment of long-lived assets required for the installation of wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms as long as twenty-five years.

C. Encouraging deployment transparency and information sharing

Agencies should provide a regular report to identify coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as “telecom areas” would also be helpful. Agencies can call for public input in identifying these areas. Such reporting will enable agencies

to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost[6] and afford a platform to discuss solutions to these challenges.

Interagency communications must improve to eliminate redundancies and coordinate meetings between agencies and state, county, and other municipal representatives. Such interagency transparency and information sharing will promote consistent interpretation of federal mandates across all agencies.

While interagency information sharing is integral to improved broadband deployment, agencies should also prioritize ongoing public–private information sharing opportunities, possibly by fostering industry–government discourse with a working group organized under the Federal Advisory Committee Act ("FACA").[7] Agencies can encourage applicants to improve pre-application engagement with both the agency before which they are applying and the community at large. Agencies would benefit from environmental and historic reviews conducted by applicants (or sources they commission) and private sector participation in the agencies' regular outreach and leadership meetings. Agencies should seek out the private sector to better educate themselves and the communities they serve on the benefits of wireless connectivity. Likewise, agencies can educate industry about rules and their application to promote understanding throughout the industry and those who monitor the industry.

[6] For instance, National Park Service ("NPS") sites require miles of road access, power-line construction, or terrestrial fiber backhaul, which can each be more expensive than the total cost of building a suburban site. These types of buildouts can also implicate National Environmental Policy Act and Environmental Impact Statement issues. Likewise, providing microwave backhaul at a site presents technical challenges, given line-of-site requirements, in addition to aesthetic challenges.

[7] *See generally* Federal Advisory Committee Act, 92 Pub. L. 463, 86 Stat. 770 (1972).

With twenty-five member agencies, the Council is in an excellent position to facilitate openness and transparency across government agencies. The Council should institute policies that encourage information sharing with interested stakeholders to foster a comprehensive and thorough approach to broadband deployment.

D. Adopting streamlined facility siting application procedures and forms

Where possible, the Council should encourage the adoption of standard application forms and contracts to facilitate the siting of infrastructure by wireless providers, many of whom work on a national scale.[8] In the private sector, wireless carriers and infrastructure providers often enter into standardized contracts to promote speed and efficiency. By standardizing forms and procedures across the federal government for siting wireless infrastructure on federal lands, both private sector and government stakeholders can leverage those same benefits.

All application forms and processes used for siting broadband infrastructure on federal lands should be evaluated for efficiency and effectiveness. The best way to ensure synchronization across agencies is to adopt standardized forms. Efficiency would also be improved by eliminating paperwork in favor of electronic communications. Agencies should adopt concurrent and/or batch application processing to increase efficiency. Agencies should also evaluate current bidding processes to eliminate bidding requirements that suppress and delay siting. Moreover, agencies can work to take processes that currently run in succession to one another and run them in parallel, shortening total time to approval. Further streamlining the application process, agencies can create a rebuttable presumption that if one carrier is on a site,

[8] *See* Comments of PCIA – The Wireless Infrastructure Association, General Service Administration, Information Collection, Wireless Telecommunications Industry Application, OMB Control No. 3090-00XX (filed May 11, 2015).

all carriers are allowable on that site by utilizing the existing provider's fees and contracts. Similarly, technological upgrades should not require a new application.

Additionally, stakeholders in the broadband deployment process would benefit from an open-source "application guidebook" to help walk applicants and agency reviewers through the process. Compliance requirements should be consistent between the guiding rules and the agency applying them. Streamlined procedures for obtaining access to various government facilities will enable necessary parties to proceed with projects without delay. Lastly, agencies should provide written explanations for application denials, and there should be an appeals process in place for arbitrary rejections. These improvements will speed up the application process and will encourage thoughtful processing in all agencies.

II. THE COUNCIL SHOULD WORK WITH AND INCENTIVIZE STATE, LOCAL, AND TRIBAL GOVERNMENTS TO REMOVE BARRIERS TO BROADBAND DEPLOYMENT

A. Incentivizing broadband deployment at the state and local level

The Council should encourage collaboration between industry and state, local, and tribal governments to address the needs and benefits of removing barriers to broadband deployment. By removing barriers to deployment, states and localities better position themselves for industry to invest in bringing broadband to their communities.

For communities throughout the country, wireless is an essential service. Wireless service and infrastructure providers continue to invest billions to expand and improve wireless service.[9] States and localities can realize the positive benefits that wireless services provide to communities, creating a process for permitting wireless facilities that balances the interests and concerns of the community and the needs of wireless service and infrastructure providers. When

[9] PCIA, WIRELESS BROADBAND INFRASTRUCTURE: A CATALYST FOR GDP AND JOB GROWTH 2013-2017, *available at* http://www.pcia.com/images/IAE_Infrastructure_and_Economy_Fall_2013.PDF (Sept. 2013).

developing local wireless policies, communication is key. Local stakeholders should maintain frequent and open channels of communication with wireless service and infrastructure providers and engage all stakeholders including service and infrastructure providers, citizens, businesses, and public safety officials.

Capital expenditures often flow where they meet the least resistance. To drive investment, localities should consider adopting an ordinance with clear and workable standards tailored to local conditions, staff abilities, time for review, and budget. Local stakeholders can create a smooth process by working cooperatively with applicants to help them understand local processes and review procedures. Moreover, a local community may consider additional streamlined review of desired projects such as collocations.

Congress and the FCC have made wireless broadband access a national priority and have taken steps to streamline deployment of these facilities.[10] Certain states and localities, however, continue to erect barriers to deployment and in some cases contravene federal law. For example, PCIA members have encountered localities that intentionally decide to only partially implement the FCC's Broadband Acceleration Order or adopt definitions that undercut federal agency rules.

The Council should encourage state and local governments to enact laws that compliment federal policy and are favorable to granting access to right-of-way, conduits, and poles. State and local governments can also incentivize broadband in their communities by lower costs to pole and conduit access. Access and lowered costs allow for the deployment of distributed antenna system and small cells to meet consumer demand for increased capacity and provide targeted coverage in difficult to reach areas.

[10] Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(b) to Ensure Timely Siting Review & to Preempt Under Section 253 State & Local Ordinances That Classify All Wireless Siting Proposals As Requiring A Variance, WT Docket No. 08-165, *Declaratory Ruling*, 24 FCC Rcd 13994 (2009); Middle Class Tax Relief and Job Creation Act of 2012, 112 Pub. L. 96, *codified at* 47 U.S.C. 1455(a); Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, *Report and Order*, 29 FCC Rcd 12865 (2014).

Industry remains committed to working collaboratively with local stakeholders to help carry out this important national mandate. Following the FCC's Broadband Acceleration Order last October, industry committed to work in good faith with national organizations representing state and local government to produce resource materials for local governments to assist in the implementation of the Order. Over the last several months, PCIA met with staff from CTIA—The Wireless Association, the National Association of Counties, the National League of Cities, and the National Association of Telecommunications Officers and Advisors forming the Broadband Acceleration Implementation Working Group. This working group has successfully developed a checklist to streamline wireless infrastructure siting review processes, conducted webinars and provided contacts for education and assistance regarding the application process, and created a model ordinance chapter and application checklist. This working group can serve as a model for further industry—municipal collaboration that the Council seeks to foster.

Such collaborations between industry and state and local governments create an environment for innovative solutions to achieve the common goal of efficient and effective broadband deployment. PCIA encourages the Council to coordinate public-private action groups to both highlight beneficial broadband policy for development and to implement policies the Council and individual agencies adopt.

B. Improving Tribal Nations consultation processes

The Council should work to increase agency coordination with and amongst Tribal Nations to harmonize notification, consultation, fees, and review systems. Consistency in the review of broadband deployment projects across Tribes, coupled with guidance would make the process more efficient and predictable for all parties involved. PCIA recommends the Council work with the National Association of Tribal Historic Preservation Officers and industry to

formulate specific best practices for Tribal consultation and review of broadband deployment projects. Best practices should at minimum include timely review of applications, cost-based fees, a public fee schedule, establishment of area of interest maps/guidance, and identification of a point-of-contact.

Additionally, PCIA advocates for the use of a unified system of review which automatically notifies federally-recognized Tribal Nations of proposed tower projects. The Council should evaluate the effectiveness of systems currently in use by federal agencies and coordinate more widespread adoption of an efficient system across federal agencies to reduce broadband infrastructure application review time and allow for expanded broadband deployment.

III. REMOVING BARRIERS TO BROADBAND DEPLOYMENT WILL INCENTIVIZE INVESTMENT AND IMPROVE BROADBAND ACCESS AND ADOPTION, ESPECIALLY IN RURAL AREAS

As the Council works to address barriers to broadband deployment by encouraging the adoption of streamlined policies by landholding agencies, states and local governments, and Tribal lands, the marketplace will reap the benefits of facilitated investment in the deployment of broadband infrastructure. The removal of these barriers will be of particular importance to spur growth in broadband access and adoption in rural areas.

Broadband coverage has long been a challenge in rural areas due to the relatively high number of cell sites needed to cover an area with low population density. Low population density historically leads to low network investment due to the lower potential return on investment in new networks and subsequent technology upgrades. However, rural consumers have increasingly shown a demand for broadband and the services and applications that broadband enables. With reliable broadband connectivity, rural areas are able to thrive and attract more people.[11]

[11] *See* IGR INC., PCIA, RURAL BROADBAND STRATEGIES: BRINGING WIRELESS OPPORTUNITIES TO RURAL AMERICA (2014).

Similar to trends in urban areas, people in rural communities use a number of wireless devices including tablets, smartphones, and other connected devices.[12] Expanded wireless connectivity in rural areas can also provide unique benefits to the needs of rural businesses, including machine-to-machine connections powering industries such as farming, timber, and mining.[13] To increase broadband coverage in rural areas, investors must consider the number of devices and connections rather than the number of people to be covered. To meet the demand spurred by the continued increase in connected devices, the Council should support the creation of public–private partnerships designed to deploy fiber in rural areas. This fiber will become the backbone infrastructure rural communities need to attract investment from wireless carriers, fiber to the home providers, enterprise broadband providers, local industry, data centers and others.

Federal and state investment in public safety networks and subsequent buildout of backhaul and antenna structures to support those networks will also be key drivers in extending mobile broadband coverage to rural areas. In addition to public safety benefits, mobile broadband in rural areas would improve the quality of life and economic opportunities in healthcare, education, worker training, agriculture, and other areas of interest.

PCIA encourages continued multi-stakeholder deliberation and action on assessing alternative driving factors that justify investment in rural broadband deployment. Increasing broadband coverage in rural areas is integral to meeting the important federal policy goal of increased broadband adoption.

CONCLUSION

By adopting the recommendations herein to remove barriers to broadband deployment on the federal, state, local, and tribal level and by incentivizing broadband investment, the newly

[12] *Id*. at 4.
[13] *See id*. at 9–12.

formed Broadband Opportunity Council will take a critical step toward increased broadband competition, deployment, and adoption. PCIA humbly requests formal and ongoing opportunities for industry to participate with the continued deliberations of the Council.

Respectfully submitted,

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