



PUBLIC NOTICE

Federal Communications Commission
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DA 06-139
Jan. 24, 2006

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON THE
AMERICAN TOWER CORPORATION REQUEST FOR WAIVER TO PERFORM
ANNUAL INSPECTIONS IN PLACE OF QUARTERLY INSPECTIONS REQUIRED BY
47 C.F.R. SECTION 17.47(b)**

WT DOCKET NO. 05-326

Comments Due: February 23, 2006
Reply Comments Due: March 15, 2006

On May 19, 2005, the American Tower Corporation (“ATC”) filed a Request for Waiver (“ATC Waiver Request”).¹ ATC seeks a waiver of Section 17.47(b) of the Commission’s Rules, 47 C.F.R. § 17.47(b), which provides that the owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications pursuant to Part 17 “[s]hall inspect at intervals not to exceed 3 months all automatic or mechanical control devices, indicators, and alarm systems associated with the antenna structure lighting to insure that such apparatus is functioning properly.”² Specifically, for towers utilizing the Eagle Monitoring System (“Eagle System”) developed by Flash Technology, ATC seeks permission to perform an annual inspection of the towers in place of the required quarterly inspection.³ On November 14, 2005, ATC supplemented its waiver request with additional information regarding the technical characteristics and functioning of the Eagle System.⁴

¹ See Request for Waiver, WT Docket No. 05-326, filed May 19, 2005 (*ATC Waiver Request*).

² 47 C.F.R. § 17.47(b).

³ See *ATC Waiver Request* at pp. 1-10.

⁴ See Letter from Dennis P. Corbett and John W. Barwell, Leventhal Senter & Lerman PLLC, and H. Anthony Lehy, Senior Vice President, Associate General Counsel and Chief Compliance Officer, American Tower Corporation, to Jeffrey S. Steinberg, Deputy Chief, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau (November 14, 2005) (*ATC Supplement*). This additional information was provided in response to a request by the Wireless Telecommunications Bureau’s Spectrum and Competition Policy Division. See Letter from Jeffrey S. Steinberg, Deputy Chief, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, to Dennis P. Corbett, Leventhal Senter & Lerman PLLC (September 29, 2005).

ATC states that 4,694 of the towers that it owns or operates in the United States and that are subject to the Commission's lighting requirements currently are monitored utilizing the Eagle System.⁵ In its Waiver Request, ATC asserts that the self-diagnostic functions in the Eagle System are sufficiently robust that quarterly inspection is unnecessary to ensure that the control devices, indicators, and alarm systems on the towers are operating properly. In this regard, ATC maintains that the Eagle System provides the functional equivalent of a continual inspection of control devices from one central location and that users of this system will be alerted to actual and potential problems immediately, in many cases, or at most within 24 hours.⁶ ATC also states that, particularly for towers in remote locations, quarterly inspection imposes a substantial and unnecessary resource burden. ATC contends that without relief it will continue to carry out tens of thousands of quarterly inspections each year without a discernible public interest benefit.⁷

GENERAL INFORMATION

Comments must be filed no later than **February 23, 2006**, and reply comments must be filed no later than **March 15, 2006**. All filings concerning matters referenced in this Public Notice should refer to **WT Docket No. 05-326**. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS): <http://www.fcc.gov/cgb/ecfs/>, (2) the Federal Government's eRulemaking Portal: <http://www.regulations.gov>, or (3) paper copies.⁸

- **ECFS Filers:** If multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full names, U.S. Postal Service mailing addresses, and the applicable docket or rulemaking number. Interested parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.
- **eRulemaking Filers:** Filers should follow the instructions provided on the website for submitting comments.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be

⁵ *ATC Supplement* at p. 4. ATC indicates that it owns or operates more than 12,000 towers that are subject to the Commission's lighting requirements. *ATC Waiver Request* at p. 3.

⁶ *ATC Waiver Request* at p. 2.

⁷ *Id.*

⁸ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

Copies of this public notice, and the waiver request noted herein, will be posted on the web at http://gullfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi and will be available for public inspection and duplication during regular business hours in the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Copies of the comments and other filings in this docket also may be obtained from the Commission's duplicating contractor, Best Copy and Printing, Inc. in person at 445 12th Street, SW, Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300 or (800) 378-3160, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This proceeding is designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁹ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.¹⁰ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules.¹¹

This action is taken pursuant to Section 1.925(c)(i) of the Commission's Rules.¹²

⁹ 47 C.F.R. §§ 1.1200(a), 1.1206.

¹⁰ 47 C.F.R. § 1.1206(b).

¹¹ *Id.*

¹² Section 1.925(c)(i) provides: "The Commission, in its discretion, may give public notice of the filing of a waiver request and seek comment from the public or affected parties." 47 C.F.R. § 1.925(c)(i).

FOR FURTHER INFORMATION CONTACT: John Borkowski, Assistant Division Chief for Spectrum Access, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 202-418-0626.

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