



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON PETITION FOR EXPEDITED RULEMAKING OF CTIA-THE WIRELESS ASSOCIATION, ET AL., FOR AMENDMENT OF PARTS 1 AND 17 OF THE COMMISSION'S RULES REGARDING PUBLIC NOTICE PROCEDURES FOR PROCESSING ANTENNA STRUCTURE REGISTRATION APPLICATIONS

WT Docket No. 08-61

Comment Date: May 27, 2008

On May 2, 2008, CTIA-The Wireless Association, the National Association of Broadcasters, the National Association of Tower Erectors, and PCIA-The Wireless Infrastructure Association (collectively, the "Infrastructure Coalition") filed their *Petition for Expedited Rulemaking* in response to the decision of the Court of Appeals for the District of Columbia in *American Bird Conservancy, Inc. v. FCC*, 516 F.3d 1027 (2008) (*American Bird Conservancy*). In that decision, the court affirmed in part and vacated and remanded in part the Commission's 2006 *Memorandum Opinion and Order* relating to a petition filed by the American Bird Conservancy, the Forest Conservation Council, and the Friends of the Earth.¹

In *American Bird Conservancy*, the court found that the Commission failed to comply with the regulations of the Commission on Environmental Quality and its own regulations requiring public involvement in implementing NEPA procedures, and remanded to the Commission, among other issues, the determination of "how it will provide notice of pending tower applications that will ensure meaningful public involvement in implementing NEPA procedures."²

¹ In the Matter of Petition by Forest Conservation Council, American Bird Conservancy and Friends of the Earth for National Environmental Policy Act Compliance, *Memorandum Opinion and Order*, 21 FCC Rcd 4462 (2006).

² *American Bird Conservancy*, 516 F.3d at 1035.

In its *Petition for Expedited Rulemaking*, the Infrastructure Coalition asks the Commission to amend Parts 1 and 17 of the Commission's Rules to establish a public notice process for antenna structure registration applications in response to the court's directive. Specifically, the Infrastructure Coalition proposes that the Commission commence a rulemaking based upon two tentative conclusions: "(1) the Commission's rules should be revised to incorporate a notice, comment and approval process for antenna structure registration ("ASR") applications modeled after the process for transfer and assignment applications; and (2) the Commission's rules should be revised to clarify that any objection on environmental ground filed against an ASR application must be filed as a Petition to Deny."³ The Infrastructure Coalition further provides, as Appendix A to its petition, its proposed rule changes.

We seek comment on the Infrastructure Coalition's *Petition for Expedited Rulemaking*. We designate the proceeding, for *ex parte* purposes, as "permit-but-disclose" in accordance with Section 1.1200(a) of the Commission's rules, subject to the requirements under Section 1.1206(b).⁴

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before the date indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
 - For 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 name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. 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.
- 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.

³ In the Matter of Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications, *Petition for Expedited Rulemaking*, WT Docket No. 08-61, at 1-2, filed May 2, 2008.

⁴ See *Public Notice*, Opening of Docket in Response to American Bird Conservancy, Inc. v. FCC, 516 F.3d 1027 (D.C. Cir. 2008), WT Docket No. 08-61, DA 08-1040 (WTB rel. May 1, 2008) (designating proceedings in response to the *American Bird Conservancy* decision as "permit-but-disclose").

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 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 must be addressed to 445 12th Street, SW, Washington DC 20554.

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Wireless Telecommunications Bureau contact: Jennifer Flynn at Jennifer.Flynn@fcc.gov or (202) 418-0612.

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