



PUBLIC NOTICE

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DA 08-2070
September 10, 2008

WIRELESS TELECOMMUNICATIONS BUREAU GRANTS EXTENSION OF TIME TO FILE COMMENTS ON CTIA'S PETITION FOR DECLARATORY RULING REGARDING WIRELESS FACILITIES SITING

WT Docket No. 08-165

Comments Due: September 29, 2008
Reply Comments Due: October 14, 2008

On July 11, 2008, CTIA – The Wireless Association (CTIA) filed a petition requesting that the Federal Communications Commission (“Commission”) issue a Declaratory Ruling clarifying provisions of the Communications Act of 1934, as amended (“Communications Act”) regarding state and local review of wireless facility siting applications.¹ Specifically, CTIA asks the Commission to “resolve open questions regarding the time frames in which zoning authorities must act on siting requests, the importance of competitive entry by multiple providers in each market, and the impropriety of unduly burdensome requirements imposed on wireless providers but not on other entities.”² On August 14, 2008, the Commission established a pleading cycle for comments on the CTIA Petition.³ The current deadline for comments is September 15, 2008, and the current deadline for reply comments is September 29, 2008.

On August 22, 2008, Montgomery County, Maryland (Montgomery County) filed a Motion for Extension of Time.⁴ On August 25, 2008, the National Association of Telecommunications Officers and

¹ *In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Petition for Declaratory Ruling, WT Docket No. 08-165 (filed July 11, 2008) (Petition).

² *Id.* at ii.

³ *Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling by CTIA – The Wireless Association to Clarify Provisions of Section 332(C)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Public Notice, WT Docket No. 08-165, 23 FCC Red 12198 (WTB 2008).

⁴ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Motion for Extension of Time, WT Docket No. 08-165 (filed Aug. 22, 2008) (Montgomery County Motion).

Advisors (NATOA), the National Association of Counties, the National League of Cities, and the United States Conference of Mayors (collectively “Associations”) filed a motion to extend the time for filing comments and reply comments.⁵ On August 26, 2008, the Greater Metro Telecommunications Consortium and Rainier Communications Commission filed an amended motion to extend the time for filing comments and reply comments.⁶ Each of the motions requests a comment period of 90 days and a reply comment period of 45 days. On August 26, 2008, CTIA filed an Opposition to Motions for Extension of Time that addresses these three motions.⁷ On August 29, 2008, Montgomery County, Maryland filed a Reply to CTIA’s opposition to the motions for extension of time.⁸ On September 8, 2008, the cities of Bar Harbor Islands, Cutler Bay, Hollywood, Homestead, Miramar, Sunrise, and Weston (collectively “Florida Cities”) filed a Motion for Extension of Time seeking an additional 30 days to file their comments.⁹ Also on September 8, 2008, the Airports Council International-North America (“ACI-NA”) filed a motion to extend the time for filing comments and reply comments by 30 days and 15 days, respectively.¹⁰

In support of their motions, Montgomery County and the Associations note that NATOA’s annual conference takes place immediately after initial comments are due, and that many attendees are

⁵ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Motion of the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors to Extend the Time for Filing Comments and Reply Comments, WT Docket No. 08-165 (filed Aug. 25, 2008) (Associations Motion).

⁶ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Amended Motion of the Greater Metro Telecommunications Association and Rainier Communications Commission to Extend the Time for Filing Comments and Reply Comments, WT Docket No. 08-165 (filed Aug. 26, 2008). The Amended Motion corrects a typographical error in an earlier motion filed on August 25, 2008.

⁷ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Opposition to Motions for Extension of Time, WT Docket No. 08-165 (filed Aug. 26, 2008).

⁸ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Reply of Montgomery County to CTIA Opposition to Motions for Extension of Time, WT Docket No. 08-165 (filed Aug. 29, 2008).

⁹ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Motion for Extension of Time, WT Docket No. 08-165 (filed Sep. 8, 2008) (Florida Cities Motion).

¹⁰ *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Motion of Airports Council International-North America to Extend the Time for Filing Comments and Reply Comments, WT Docket No. 08-165 (filed Sep. 8, 2008) (ACI-NA Motion).

involved in the processes that the petition addresses.¹¹ In addition, the Associations explain that the current deadline does not allow enough time for them to complete an analysis and provide comments on the complex legal and factual issues raised by CTIA's Petition.¹² The Associations also indicate that they need additional time to identify local governments that the Petition alleges to have engaged in certain conduct and to address those allegations.¹³ Montgomery County further states that given that the petition rests on factual assertions, and that the petition seeks to change how Sections 332 and 253 of the Communications Act¹⁴ have been applied for the last twelve years, "it is important that local governments have sufficient time to provide a reasonable response."¹⁵ Florida Cities ask for an extension of time to file their comments due to the effects that Hurricane Ike is likely to have on them.¹⁶ ACI-NA also contends that granting an extension will not harm or otherwise prejudice the Commission or any interested party.¹⁷ In its Opposition, CTIA asserts that the comment dates provide adequate time for parties, and that the motions do not provide an adequate rationale for an extension.¹⁸

We note that it is the policy of the Commission that extensions of time shall not be routinely granted.¹⁹ Nevertheless, while the moving parties have not established good cause for the full extensions that they request, we find that a short period of additional time will permit all interested parties to file more thorough and thoughtful comments, which should lead to a more complete and better-informed record. We thus find that good cause exists to provide all parties an extension of time from September 15, 2008 to **September 29, 2008** for filing comments in this proceeding and from September 30, 2008 to **October 14, 2008** for filing reply comments in this proceeding.

For further information, contact Michael Rowan of the Wireless Telecommunications Bureau at Michael.Rowan@fcc.gov or (202) 418-1883.

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¹¹ See Montgomery County Motion at 1; Associations Motion at 1-2. ACI-NA notes that its annual conference presents a similar conflict. See ACI-NA Motion at 3-4.

¹² Associations Motion at 1.

¹³ *Id.* at 2-3.

¹⁴ 47 U.S.C. §§ 332, 253.

¹⁵ Montgomery County Motion at 2.

¹⁶ Florida Cities Motion at 1-2.

¹⁷ ACI-NA Motion at 4.

¹⁸ CTIA Opposition at 2.

¹⁹ 47 C.F.R. § 1.46(a).