

**STATEMENT OF
COMMISSIONER BRENDAN CARR**

Re: *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, RM-11849

Two years is about how long it takes to build a new macro tower. The process typically includes zoning, construction, and electrical permits; city council presentations and public town halls; environmental and historical preservation reviews; negotiation about aesthetics and design—and that's all *after* a provider has studied demand, engineered the signal, and bought land.

It's a lengthy, involved, expensive process. And in some ways you can understand why. Building a couple hundred foot tall structure doesn't happen every day, and once it's built, a tower can provide service for decades.

Local governments, industry, and Congress have concluded that there's often a better way. Reusing macro towers through collocating multiple providers and updating equipment can provide the public the benefits it deserves—wide coverage and fast connections—while avoiding the cost and delays associated with building new towers from scratch. It's common sense that putting new equipment on old towers is less intrusive and requires less regulatory review than new tower construction.

I had the chance to see how straightforward a collocation can be last week. That's when I drove out to a farm in Maryland and joined a tower crew that was swapping out 2G antennas for 5G ones on a macro tower. Take a look.

<https://twitter.com/BrendanCarrFCC/status/1268263380420354053>

Aaron and Charlie are among the 25,000 tower techs building broadband across the country literally with their hands. While their jobs are far from easy, the project they completed in about an hour last week was among their easiest: taking off an old antenna and attaching a new one.

Congress encouraged collocations like these by making them simpler through Section 6409 of the Spectrum Act. That law says that local governments “may not deny, and shall approve” any tower modification “that does not substantially change [its] physical dimensions.” In 2014, the Commission wrote rules to implement the law, in particular defining what constitutes “substantial change.”

In the last six years, those rules have been used to upgrade thousands of towers. The upgrades enabled 4G LTE service, especially on macro towers in rural America. They're being used now to build America's world-leading 5G networks. And they're benefiting communities by reducing the potential for redundant towers, creating less costly and disruptive infrastructure.

There have been some bumps along the way, and those are partly due to our 2014 rules. In some instances, our definition of “substantial change” wasn't as clear as it could have been, and there have been some disagreements over how to interpret our 60-day shot clock for local government approval. Those disagreements—the lack of clarity in our rules—can themselves slow down Internet builds. We aim to resolve those ambiguities in this declaratory ruling and notice. I'll highlight a few of the key actions we take today.

- We explain that the 60-day shot clock we adopted in 2014 begins when a provider takes the first procedural step that the locality specifies and shows in writing that the project

qualifies for expedited consideration. The myriad processes that have grown outside of our shot clock should be brought back within it. Sixty days means 60 days.

- We clarify that when we use the term “concealment element,” we’re referring to those elements that make a stealthed tower look like something else—a clock tower or a tree, for example. A change becomes substantial and so doesn’t qualify for expedited approval if a reasonable person would think that the modified tower no longer looks like that clock tower or tree.
- And we note that localities can place a number of conditions on new construction of a tower that can’t be circumvented through this expedited process. However, there has to be express evidence that a condition really was a condition of approval.

I am proud of the thorough and thoughtful process the Commission took to craft this item, and I especially thank the Wireless Telecommunications Bureau and its infrastructure team for their skill and diligence. The two petitions that prompted this order came to us more than nine months ago. We sought comment on the petitions, and at the request of local governments and utilities, we extended the comment period into November. The record that developed was robust. We heard from infrastructure builders, broadband providers, local governments, and everyday Americans alike.

Localities were especially active. We heard from 70 local governments and their associations, and they provided us nearly 700 pages of detailed comments. They made a substantial contribution to this order, and their positions carried the day on several issues we decide. For example, we require industry to make written submissions before they can claim that the shot clock starts, and we protect a broad swath of localities’ conditions of tower approval.

In the end, by bringing greater clarity to our rules, our decision reduces disagreements between providers and governments. And it separates the wheat from the chaff—the more difficult approval decisions, such as whether and how to construct a new tower, from the easier ones, such as whether to allow an existing tower to be upgraded.

It’s also important that we act now because providing more broadband for more Americans has never been so important. It’s at the forefront of our minds during this COVID-19 pandemic as kids learn from home, parents provide for their families away from the office, patients access critical care outside of hospitals, and we all connect to each other at a distance. Making upgrades easier is at the heart of 6409 and this order—and it comes at a time when we need as much capacity as we can get. So I am glad that we move forward today with clarifications that will help tower crews connect even more communities.

Our decision here is also the latest step in a series that the FCC has taken since 2017 to modernize our approach to 5G. Back then, it cost too much and took too long to build Internet infrastructure in this country. So we updated the environmental and historic preservation rules that were slowing down small cell builds. We built on the commonsense reforms adopted by the states and reined in outlier conduct. And we streamlined the process for swapping out utility poles to add wireless equipment, among other reforms.

I thank Chairman Pai for tapping me to lead this infrastructure work. The Commission has unleashed private sector investment that already is delivering results for the American people. The very first commercial 5G service launched here, in the U.S., in 2018. By the end of that year, 14 communities had 5G service. Halfway through 2019, that figure expanded to more than 30. And one provider alone has now committed to building 5G to 99 percent of the U.S. population.

America's momentum for 5G is now unmistakable. You can see it not only in big cities like New York or San Francisco, but in places like Sioux Falls, South Dakota where 5G small cells are live and in rural communities like the one I visited last week in Maryland where macro towers are beaming 5G through farms and forests. Our infrastructure work will continue until every community has a fair shot at next-generation connectivity.

We call our decision today the 5G Upgrade Order because it will accelerate wireless service upgrades for the benefit of so many Americans. It will be an upgrade for rural America, as families who never had a choice in wireless will get new service. It will be an upgrade for first responders, as dedicated networks and expanded capacity are built on existing towers. And it will be an upgrade for all of us, as our networks blow past previous technologies to world-leading 5G.

I'm grateful for the strong support this order has received from dozens of leaders in local governments and in Congress, infrastructure builders, farmers and ranchers, first responders, and technologists. And I especially want to thank the Commission staff without whom this 5G Upgrade Order would not exist:

From the Wireless Telecommunications Bureau: Paul D'Ari, Garnet Hanly, Kari Hicks, William Holloway, Susannah Larson, Belinda Nixon, Dana Shaffer, Donald Stockdale, Cecilia Sulhoff, and Joel Taubenblatt, and also Jiaming Shang and David Sieradzki, both formerly of the Wireless Telecommunications Bureau.

From the Office of General Counsel: Deborah Broderson, Michael Carlson, David Horowitz, Linda Oliver, Bill Richardson, and Anjali Singh.

From the Office of Economics and Analytics: Catherine Matraves and Patrick Sun.

From the Wireline Competition Bureau: Adam Copeland, Elizabeth Drogula, and Michael Ray.

From the Enforcement Bureau: Daniela Arregui and Jason Koslofsky.

And from the Office of Communications Business Opportunities: Chana Wilkerson.

Thank you for your contributions to this order. It has my support.