

**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*

If you've ever driven out Arlington Boulevard to where it meets D.C.'s Beltway, chances are that your phone has checked in with a wireless tower located on Gallows Road. You might not have noticed it as you drove by because the tower was made to be about the same height and have the same brown trunk and green branches as the trees around it.

Loaded on that trunk and hidden between those branches is radio equipment for two wireless providers, and there are discussions about a third provider collocating soon. At the base of that monopine are the fiber, computing equipment, and power supply for the wireless providers—and even the local cable company, to boot.

Think about all of the work that that single tower does. For example, it serves the Inova Fairfax Hospital, about a mile away. With an urgent buzz of pagers, that tower summons surgeons to the ER to save lives; it delivers texts home that say someone's going to be OK. It's positioned even closer to two public elementary schools. Before the pandemic, there's no doubt the tower carried communications between teachers and their students' families. Now, one of the schools is an Election Day center. If a voting machine breaks down, the lines are too long, or there's any other barrier to ensuring that citizens' right to vote is secured on Tuesday, poll workers will rely on that tower to find solutions quickly.

The point is that we don't realize how much we depend on our local wireless tower—until it stops working and we yell at our cell phone company. And even if we do pause for a moment to ponder and appreciate how much wireless is integrated into our daily lives, almost none of us see the discoveries, planning, investment, and regular effort required to keep us connected.

One person who is deeply aware of those efforts is Tam Murray. The company he founded, Community Wireless Structures, builds and operates towers in northern Virginia, including the one on Gallows Road. It's a place where exurbs have grown into suburbs and suburbs have grown into cities in their own right. With that growth have come an increased demand for data and an expectation that people who live in the suburbs, exurbs, and rural communities will enjoy the same reliability that city people enjoy.

Tam has been planning to upgrade the Gallows Road tower to meet his customers' needs. When I visited the tower with him last week, Tam showed me where he wants to expand his fence to make room for backup power. Trees cover that area, and it's notoriously difficult to keep the power on during storms. While a house without power might be a manageable inconvenience for some, a tower without power can cut off wireless service for miles around. That's unacceptable, especially in an emergency. FirstNet, the government authority charged with building a first responders' network, has contracted for new backup power at cell sites across the country. In fact, the California Public Utilities Commission this year *mandated* 72 hours of backup power at sites statewide.

Tam also needs some more space to expand capacity. Wireless providers are adding more equipment to towers to light up the massive amounts of spectrum this Commission has brought to market over the last four years. 5G's hallmark speed—gigabits through the air—requires lots of spectrum, and often lots of equipment to use each band. And 5G's low latency—network response in milliseconds—can

be advanced by computing power located at tower sites. To provide these robust 5G capabilities, Tam's site needs a modest expansion.

In 2012, Congress anticipated problems of this sort. Back then, the wireless providers were finishing a massive upgrade to 4G LTE, ushering in the era of mobile broadband. Tower upgrades seemed like no-brainers: they directly benefited communities with fast service while requiring only minor equipment changes to towers that already had been built. Yet many communities were being left behind because of the long delays and high costs that some municipal governments imposed on straightforward tower work. Congress stepped in with Section 6409, which mandated that municipal governments approve tower upgrades that do not substantially change the physical dimensions of the tower.

Two years later, the FCC wrote rules implementing Section 6409. One of our tasks then was to define what would and wouldn't count as a substantial change so that tower owners could have some certainty about which upgrades would qualify for expedited approval. To complete that task, the Commission turned to two agreements that we reached with the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers (NCSHPO).

These agreements cover tower replacements and collocations, which are when equipment is changed on an existing structure. The agreements allow replacements and collocations to proceed without going through protracted historic preservation or environmental reviews, in some circumstances. We noted that Congress was aware of the agreements when it enacted Section 6409, and Congress explicitly referenced our ongoing historic preservation and environmental obligations within the statute's text. Because of this, we reasoned that the modest tower changes allowed under the agreements would be a good starting point for understanding the tower changes Section 6409 would allow. As a policy matter, it makes sense that updates to towers that are minor enough to exclude from our other reviews may be minor enough to exclude from municipal approvals. And if there's consistency between our environmental, historic preservation, and local approval rules, it would simplify and expedite tower upgrades—exactly the purpose of Section 6409.

There was one discrepancy between the two agreements, which forms the crux of what we're doing today. The 2001 agreement, which covers collocations, didn't allow for any excavation or deployment beyond the limits of a tower site at the time of the collocation. In contrast, the 2005 agreement, which covers tower replacements, allowed a tower site to be expanded by 30 feet. When the Commission wrote its rules for Section 6409, it looked at the two agreements that had nearly identical terms except for site expansion. On that question, the Commission picked the older agreement, although without much discussion or reasoning.

The discrepancy between the 2001 and 2005 agreements didn't make much sense in the first place. From an environmental and historic preservation perspective, the point of the agreements was to encourage reuse of tower sites instead of building duplicative ones. If evolving technology and circumstances by 2005 showed that an additional 30 feet were needed to revitalize tower sites and, on balance, were better for environmental and historic preservation interests than building new sites, then that reasoning would seem to apply with equal force to the 2001 agreement.

In July of this year, ACHP, NCSHPO, and the FCC corrected the discrepancy between the agreements. We jointly amended the 2001 agreement to allow for tower site expansion when collocating, which brought the 2001 agreement into conformance with the 2005 agreement. That leaves us with the Commission's Section 6409 rules as the sole remaining outlier. Today's order finishes our work to sync the site expansion rules between the agreements and Section 6409. We now will allow 30 feet of site expansion consistently across our environmental, historic preservation, and local approval rules.

From the NPRM to the published draft and from the draft to today's version, we made a number of changes that we thought resolved outstanding issues and were true to the balance Congress struck in Section 6409. Our definition of "site" reaffirms local zoning authority by marking site boundaries as those last reviewed and approved by a local government outside of the Section 6409 process. Per municipal governments' request, we emphasize that the equipment to be deployed in the expanded site space is specifically "transmission equipment." We clarify that the municipal governments retain their usual easement power, and we state that site expansion is to be measured from the current site and not from existing easements. We appreciate municipal governments', industry's, and all commenters' assistance in refining our rules over the last few months. The final work product benefited from your contributions.

This action marks another significant step in our broader effort to modernize wireless infrastructure. Over the last three years, we have set limits on fees and shot clocks for environmental and historic preservation review of small cells. We put in place guardrails around municipal government review of and fees on that same technology. We streamlined the process for swapping out utility poles to add wireless equipment. We created an expedited approval process for tower builds during COVID-19. We accelerated next-gen networks through our 5G Upgrade Order. And now we pave the way for more resilient and capable sites through this action. Those are, of course, on top of the Commission's bold moves on spectrum and workforce development.

America is home to the strongest 5G platform in the world. And at least some of the credit for that accomplishment should go to our Wireless Telecommunications Bureau and its infrastructure team. So I'd like to acknowledge the members of that team who had a hand in today's item and so many of the others we have approved: Paul D'Ari, Garnet Hanly, Kari Hicks, George Leris, Belinda Nixon, Dana Shaffer, Donald Stockdale, and Joel Taubenblatt.

To the tremendously talented staff, I thank you again for your service to the Commission and the country. Your work and this order have my support.