

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS,
DISSENTING**

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*

It has been well over seven months since COVID-19 first hit the United States. Even as more than 225,000 people have died from the pandemic and unemployment has hit record highs, state and local governments have been on the front lines running healthcare systems and schools. They've done so despite tight budgets that are only getting more limited.

Today's Report and Order adds to these already considerable challenges by requiring these governments to provide streamlined processing to requests for ground excavations or deployments of transmission equipment up to 30 feet in any direction outside a macro cell tower site. On its face, this decision is inconsistent with the plain language of section 6409, which mandates streamlined processing only for modifications of "existing wireless towers." By its own terms, the provision does not extend its requirements beyond the wireless tower itself, yet this decision will allow applicants to obtain streamlined processing for work well outside the facility. Moreover, this decision could encourage applicants to evade local zoning regulations by seeking initial approval for less space than they actually need and then obtaining streamlined processing for expansions beyond that area. Such expansions could lead to serious public safety issues.

I also take issue with the Report & Order's decision to define the current boundaries of the "site" of a tower based on the most recent review and approval by the state or local government. This definition is too broad. "Site" should only refer to the area surrounding the tower that was identified as the tower site in the relevant application that last received discretionary approval from the applicable authority. It should not be based upon non-discretionary approvals lacking any substantive review. This definition of "site" could lead to expansions to areas that the state or local government never had the opportunity to consider on the merits.

As the country continues to grapple with COVID-19, state and local governments are working overtime to respond to the crisis and continue their daily operations. This decision will add yet another problem to their plates: expansions that may create public safety hazards in the communities they are already working tirelessly to protect. While streamlining rules and flexibility can be helpful and sometimes necessary, we must not do so at the expense of state and local governments that are already overburdened. For these reasons, I dissent.