



NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

FOR IMMEDIATE RELEASE:
November 18, 2009

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FCC ISSUES DECLARATORY RULING ESTABLISHING TIMEFRAMES FOR STATE AND LOCALITY PROCESSING OF APPLICATIONS FOR WIRELESS TOWERS

Washington, D.C. – In a Declaratory Ruling (“Ruling”) adopted today, the Federal Communications Commission (“FCC”) cleared the way for broadband deployment by establishing timeframes of 90 days for collocations and 150 days for all other tower siting applications reviewed by state and local governments. This action will assist in speeding the deployment of next generation wireless networks while respecting the legitimate concerns of local authorities and preserving local control over zoning and land use policies.

Congress specifically requires that state and local authorities act “within a reasonable period of time” on requests for tower siting. The deployment of next generation mobile broadband networks promises tremendous benefits for American businesses and consumers and realizing these benefits will require new physical networks, including many new towers.

While most state and local jurisdictions currently process tower siting applications in a timely fashion, the FCC found that there are many instances of unnecessary delays. In order to ensure a timely review of these applications and to prevent unnecessary delay, the FCC interprets a “reasonable period of time” under Section 332(c)(7) of the Communications Act as 90 days for collocations and 150 days for all other towers. If a jurisdiction “fails to act” on the application within this reasonable time period, applicants may file a claim for relief in court within 30 days of the failure to act. The court will then decide what action to take based on all the facts of the case.

The FCC decision achieves a balance by defining reasonable and achievable timeframes for State and local governments to act on zoning applications while not dictating any substantive outcome on any particular case or otherwise limiting State and local governments’ fundamental authority over local land use. The FCC stated that the timeframes adopted, and the requirement that parties seek injunctive relief from a court, are consistent with preserving State and local sovereignty and the intent of Congress.

The Ruling also finds that it is a violation of the Communications Act for a State or local government to deny a wireless service facility siting application because service is available from another provider. Finally, the Ruling denies CTIA’s request to find that it is a violation of the Communications Act for a State or local regulation to require a variance or waiver for every wireless facility siting.

The findings in the Declaratory Ruling will be effective upon release of the item.

Action by the Commission, November 18, 2009, by Declaratory Ruling (FCC 09-99).

Chairman Genachowski, Commissioners Copps, McDowell, Clyburn, and Baker.
Separate statements issued by Chairman Genachowski, Commissioners Copps, McDowell,
Clyburn, and Baker.

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WT Docket No. 08-165

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