

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Petition for Rulemaking to Update Part 1,
Subpart I of the Commission’s Rules
Implementing the National Environmental
Policy Act

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RM-12003

COMMENTS OF THE WIRELESS INFRASTRUCTURE ASSOCIATION

Given significant changes in the policy landscape for environmental reviews across the Executive, Legislative, and Judicial branches, the time is ripe for the Federal Communications Commission (“FCC”) to review its permitting process for communications deployments under the National Environmental Policy Act (“NEPA”). Accordingly, the Wireless Infrastructure Association (“WIA”)¹ submits these comments in support of the Commission initiating a review of its NEPA procedures in the above-captioned proceeding, including foundational legal questions about the applicability of its rules, pursuant to the Petition for Rulemaking submitted by CTIA.² Further, WIA encourages the Commission to take this opportunity to revisit its rules for reviews under the National Historic Preservation Act (“NHPA”). As identified in CTIA’s Petition, these statutes are closely intertwined within the Commission’s rules and improvements to both of these review processes could have substantial effects in expediting wireless deployments to connect all Americans.³

¹ The Wireless Infrastructure Association (“WIA”) represents the businesses that build, develop, own, and operate the nation’s wireless infrastructure. Members include infrastructure providers, wireless carriers, and professional services firms that are responsible for telecommunications facilities around the globe.

² *Wireless Telecommunications Bureau Seeks Comment on CTIA Petition for Rulemaking*, DA 25-290, RM-12003 (rel. Mar. 31, 2025); CTIA, *Petition for Rulemaking*, RM-12003 (filed Mar. 27, 2025) [“CTIA Petition”].

³ See CTIA Petition at 21-22, 29.

Wireless infrastructure deployment drives economic growth in every community and industry in America. When WIA members build infrastructure, investment and innovation follow. Wireless connectivity underpins a myriad of sectors ranging from public safety and municipal services to industrial and consumer applications. Ensuring ubiquitous coverage of communications services—including wireless—is a core directive for the FCC.⁴ One of the most effective ways the Commission can support timely deployments is through the removal of redundant or unnecessary reviews for the infrastructure needed to support these networks. While the Commission, under the leadership of then-Commissioner Carr, has taken several steps in recent years to improve its permitting processes,⁵ changes in the administrative and legal landscape make this proposed review particularly timely. Accordingly, WIA supports the Commission initiating this review to seek comment on improvements to its environmental review process.

I. Recent Changes to NEPA Guidance Require the FCC to Undergo a Refresh.

There is bipartisan consensus that environmental review processes under NEPA are ripe for streamlining across the federal government, including at the FCC. As CTIA notes in its petition, Congress recently provided significant reforms to how the government should approach

⁴ See 47 U.S.C. § 151 (establishing the FCC for the purposes of, *inter alia*, making communications services available to all the people of the United States). See also *id.* at § 1302(b) (providing that the FCC will regularly evaluate whether advanced telecommunications are being timely deployed and directing it to take steps to accelerate deployment by removing barriers to deployment where it is not).

⁵ See, e.g., *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, Declaratory Ruling and Notice of Proposed Rulemaking, 35 FCC Rcd. 5977 (2020) (providing clarifications on state and local government's obligations to approve certain insubstantial wireless modifications) ["5G Upgrade Order"]; *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, Report and Order, 35 FCC Rcd. 13188 (2020) (ruling that modifications can expand an existing compound by up to thirty feet) ["Compound Expansion Order"]; *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Third Report and Order and Declaratory Ruling, 33 FCC Rcd. 7705 (2018) (streamlining review for certain small wireless deployments) ["Small Cell Order"]; *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd. 12865 (2014) (implementing Section 6409 of the 2012 Spectrum Act to improve siting for Eligible Facilities Requests).

NEPA reviews in the Fiscal Responsibility Act of 2023 (“FRA”).⁶ This bipartisan legislation was the first major reform of NEPA in nearly 50 years and attempted to address the increasingly complex and ambiguous environmental review process which had developed under previous guidance. Further, the authority of the Council on Environmental Quality (“CEQ”)—which has historically provided foundational guidance for how federal agencies may comply with NEPA—has been significantly curtailed in recent decisions from the D.C. Circuit and the District of North Dakota.⁷ Finally, all federal agencies are expressly directed to review their NEPA procedures as part of President Trump’s Executive Order on Unleashing American Energy.⁸ Taken together, it is clear that the timing is not just ripe for the Commission to take up the review CTIA proposes, but it is required to ensure its rules comply with changing guidance.

II. The Proposed Changes to the Environmental Assessment Process Are Appropriate and Will Substantially Improve the Deployment Landscape.

WIA’s members report that the most onerous provisions of the current review process are generally experienced when a project falls outside of the Commission’s categorical exclusions, thereby requiring an Environmental Assessment (“EA”). While adopting CTIA’s recommended changes to what constitutes a major federal action would likely exempt many of these projects, the Commission should regardless seek to improve its EA process to ensure deployments that are still subject to environmental review are not bogged down with unnecessary process. Commonsense

⁶ CTIA Petition at 5; Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, 137 Stat. 10 (2023) (directing a review of rules for environmental and historic reviews of infrastructure) [“FRA”].

⁷ *Marin Audubon Soc. v. FAA*, 121 F.4th 902 (D.C. Cir. 2024); *Iowa v. CEQ*, No. 1:24-CV-0089 (D.N.D 2025). See also Removal of National Environmental Policy Act Implementing Regulations, 90 Fed. Reg. 10610 (Feb. 25, 2025) [“CEQ Interim Final Rule”]; CEQ, Memorandum for Heads of Federal Departments and Agencies, Implementation of NEPA (Feb. 19, 2025) <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/CEQ-Memo-Implementation-of-NEPA02.19.2025.pdf> [“Guidance Memorandum”].

⁸ Exec. Order No. 14154, 90 Fed. Reg. 8353, §§ 5-6(a) (Jan. 29, 2025) [“E.O. 14154”].

improvements like those articulated by CTIA,⁹ which are consistent with Congressional direction in the FRA, such as page limits on EAs and timelines for reviews, should be considered by the Commission as part of this proceeding.

CTIA proposes a number of improvements to the EA process that WIA supports. These changes generally reflect the recommendations Congress provided in the FRA, including limitations on the scope of impacts considered by the approving authority and what alternatives must be considered, timelines for initial and final reviews, and providing clarity on what objections may require further evaluation.¹⁰ WIA supports the Commission adopting changes consistent with CTIA's recommendations and any others that would add predictability and proportionality to its environmental review process.

In addition to the improvements CTIA recommends, the Commission should consider other steps to modernize its EA process. Simple changes, like removing outdated requirements that notices for public comment be published in a local paper of general circulation¹¹ would remove unnecessary costs and delays for projects that require an EA. More substantial changes could include clarifying certain presumptions of when an EA will be required. Currently, WIA's members report that there is inconsistent guidance from the Commission regarding whether an FCC EA is required when a project has received conditional approval on its environmental impacts from another federal agency. The Commission should take this opportunity to affirmatively declare that conditional approvals do not automatically trigger the EA process absent extraordinary circumstances.

⁹ See generally, CTIA Petition at 22-27 (providing recommendations to streamline and right-size the FCC's NEPA process for projects requiring an Environmental Assessment).

¹⁰ See *id.* at 27.

¹¹ 47 C.F.R. 17.4(c)(2).

Improving the EA process will help facilitate the deployment of needed infrastructure across the country. By eliminating unnecessary delays and expenses from projects, the Commission will reduce barriers to deployment, which will accelerate the provision of advanced services to all Americans and bring new opportunities to unconnected communities.

III. The Commission Should Also Take This Opportunity to Review Its Rules for NHPA Approvals.

Finally, the Commission should take this opportunity to review its rules for approvals under the NHPA. As CTIA notes, these reviews for approval under the NHPA and NEPA have long been considered “essentially coterminous” and can both be a source of delay to infrastructure projects.¹² While WIA respects the important role historic preservation efforts play at the state, federal, and tribal levels, the Commission should ensure that critically needed wireless deployments are not delayed by unnecessary or redundant review processes. WIA encourages the Commission to provide a robust review of its NHPA rules to ensure that they are appropriately tailored to the potential impact of wireless deployments.

Similar to the proposals related to improvements to NEPA, WIA encourages the Commission to adopt streamlined rules that will improve the NHPA review process, including prescribing timelines for review and adopting presumptions of no historic impact where opposition is not raised, or the area has been previously evaluated and/or disturbed. These improvements to the process would help lessen the burden on approving authorities and industry by not requiring reviews where the project is unlikely to disrupt legitimate historic interests.

¹² CTIA Petition at 21 (quoting *Ringsred v. City of Duluth*, 828 F.2d 1305, 1309 (8th Cir. 1987)).

IV. Conclusion

WIA appreciates the Commission's continued commitment to improving the communications deployment landscape. Agencies across the federal government must initiate reviews of their NEPA procedures to comply with recent direction from Congress along with significant changes in administrative guidance and the underlying authority of the CEQ. Accordingly, WIA urges the Commission to proceed with a rulemaking to consider all reasonable changes and improvements to its environmental review process that will ensure a predictable, proportionate, and transparent permitting framework.

Respectfully Submitted,

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