

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
2004 and 2006 Biennial Regulatory Reviews -- Streamlining and Other Revisions of Parts 1 and 17 of the Commission's Rules Governing Construction, Marking and Lighting of Antenna Structures)	WT Docket No. 10-88
)	
Amendments to Modernize and Clarify Part 17 of the Commission's Rules Concerning Construction, Marking and Lighting of Antenna Structures)	RM 11349
)	
)	

**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ respectfully submits reply comments on certain issues raised in the Federal Communication Commission's Notice of Proposed Rulemaking (Notice) in the above-captioned proceeding.²

On the question of the time frame for antenna structure owners to repair extinguished lights, NAB agrees with commenters supporting retention of the

¹ The National Association of Broadcasters is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the Courts.

² 2004 and 2006 Biennial Regulatory Reviews -- Streamlining and Other Revisions of Parts 1 and 17 of the Commission's Rules Governing Construction, Marking and Lighting of Antenna Structures; Amendments to Modernize and Clarify Part 17 of the Commission's Rules Concerning Construction, Marking and Lighting of Antenna Structures, Docket No. WT Docket No. 10-88, Notice of Proposed Rulemaking (*rel. Apr. 20, 2010*) ("Notice").

current rule, which allows antenna structure owners to repair lights “as soon as practicable.” 47 C.F.R. § 17.56(a). As the comments explained, various circumstances beyond the owner’s control often arise that can delay repairs.³ Thus, imposing an arbitrary time frame for such repairs would be problematic. See Notice at ¶ 27.

NAB and other commenters also support the Commission’s proposal to delete references in its rules to specific Advisory Circulars issued by the Federal Aviation Administration (FAA). Notice at ¶ 15. As the record demonstrates,⁴ the Commission correctly finds that confusion may arise when the Commission cites obsolete or superseded FAA circulars. *Id.*

Regarding such circulars, the Commission seeks comment on whether, in the event the FAA changes its standards for antenna structures, the Commission should have the flexibility to retroactively apply new standards. *Id.*, at ¶ 12. A number of parties argue that, once an antenna structure is marked and lit in accordance with the specifications of its registration, they should not be required

³ Comments of the National Association of Broadcasters, RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 2-3 (noting the limited number of qualified tower climbers that may be available, and potential delays in procuring and shipping of needed equipment); Comments of the American Petroleum Institute (API), RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 5 (explaining that certain towers may be difficult to access); Comments of CTIA – The Wireless Association (CTIA), RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 8 (listing variables that can delay repairs, including the severity of the outage, weather conditions, availability of equipment and personnel, legal restrictions on accessing a tower); Comments of the National Telecommunications Cooperative Association (NTCA), RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 7.

⁴ NAB Comments at 5-6; Comments of PCIA - The Wireless Infrastructure Association (PCIA), RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 14; API Comments at 2-3; Comments of AT&T, RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 2-3; Comments of American Tower Corporation (ATC), RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 3.

to retroactively re-mark or re-light the structure because the FAA changes an advisory circular,⁵ especially in light of the extensive burdens associated with retrofitting an existing antenna structure. CTIA notes there are over 112,000 antenna structures registered in the Commission's Antenna Structure Registration (ASR) system, and estimates the costs of replacing lighting systems to range from \$7,000 to \$40,000, depending on the system in question and the nature of the structure.⁶ Verizon Wireless estimates it would cost more than \$12,000 to change a lighting system on a 200-350 foot tower and more than \$30,000 to change a lighting system on a 351-500 foot tower.⁷ Industry-wide, adoption of a policy retroactively applying FAA standards could cost upwards of \$1 billion every time the FAA changes a relevant standard. Verizon Wireless Comments at 4.

Parties also note that mandating retroactive compliance with new FAA circulars would trigger the filing of a new ASR for each affected structure. This would create a very significant, additional administrative burdens for the Commission, the industry, and the FAA. ATC Comments at 4; Verizon Wireless Comments at 5.

NAB believes there are more productive ways for industry and government to allocate their limited resources, particularly in today's economic environment. Moreover, where there is no evidence that such a burdensome

⁵ AT&T Comments at 3; CTIA Comments at 3-4; API Comments at 3; ATC Comments at 3-4.

⁶ CTIA Comments at 4 (estimating costs of removing existing equipment and purchasing and installing new equipment).

⁷ Comments of Verizon Wireless, RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 3-4.

regulatory change is necessary, or that such a change would be preferable to any other, more practical, alternative, NAB submits that retroactive rules, which are generally considered bad policy, are particularly unwarranted.

With regard to more specific proposals, NAB agrees with PCIA that the Commission should refrain from adopting a requirement that height information provided on FCC Form 854 (Application for Antenna Structure Registration) must be accurate to within one foot and coordinate data must be accurate to within one second of longitude and latitude. Notice at ¶¶ 16-17. Instead, we submit that the Commission should continue to defer to the FAA on matters relating to the accuracy of antenna structure sites.⁸

There appears little reason for the Commission to mandate specific accuracies that could lead to the reporting of different figures to the Commission and to the FAA. Structure owners already must obtain an aeronautical study from the FAA to ensure accuracy of the antenna structure site and to enhance air safety. This process safeguards air navigation. Providing new or different figures to the Commission and the FAA could create confusion.⁹ Without any evidence that the existing process is somehow lacking, or that the proposed rule change would enhance public safety, there is no need to duplicate the FAA's role.

⁸ PCIA Comments at 6. See *also* Comments of the Association of Federal Communications Consulting Engineers (AFCCE), RM-11349, WT Docket No. 10-88 (filed July 20, 2010) at 3.

⁹ For example, we note that the Commission's proposed standards are more stringent than the most precise survey accuracy of vertical height required by the FAA.

Finally, we support PCIA's request for elimination of Section 17.47 of the Commission's rules, which requires antenna structure owners to inspect the lights on their structures at least once daily and to inspect related control equipment on a quarterly basis.¹⁰ Since the Commission last considered this rule decades ago, modern technologies have greatly simplified the automatic monitoring of lighting systems and associated control equipment. As a result, the quarterly inspection mandate has become obsolete. According to PCIA, compliance with the quarterly inspection mandate costs millions of dollars a year for some tower owners. PCIA Comments at 19. Such funds could be more productively utilized to upgrade additional structures to modern monitoring systems.

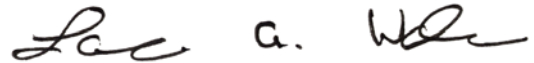
NAB thus endorses the proposal to eliminate Section 17.47, and instead rely on the Commission's enforcement authority to ensure consistent, reliable inspections of lighting systems and control devices. Notice at ¶ 25. We agree with the Commission's suggestion that "relieving inspection requirements for such towers may encourage tower owners to adopt state-of-the-art [monitoring] systems." *Id.* As PCIA notes, eliminating Section 17.47 will spur the innovation and expansion of monitoring systems, while conserving Commission resources. PCIA Comments at 19.¹¹

¹⁰ PCIA Comments at 17; 47 C.F.R. § 17.47.

¹¹ While NAB supports the use of automatic monitoring systems, we disagree with AFCCE's suggestion that antenna structure owners be required to install such systems. AFCCE Comments at 1. For some owners, such a mandate could be cost-prohibitive because of the geographic or other characteristics of their tower(s) or due to individual financial circumstances. Especially given

Accordingly, NAB respectfully asks the Commission to clarify or modify its rules governing antenna structures as discussed above.

Respectfully submitted,



Jane E. Mago
Jerianne Timmerman
Ann West Bobeck
Larry Walke
NATIONAL ASSOCIATION OF
BROADCASTERS
1771 N Street N.W.
Washington, D.C. 20036

Rekha Chandrasekher
NAB Legal Intern

Kelly Williams
NAB Science & Technology

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current economic conditions, licensees should have flexibility in complying with the Commission's antenna structure inspection rules.