

**Testimony of  
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CTIA-THE WIRELESS ASSOCIATION®  
In Support of Pennsylvania Senate Bill 1345**

**May 2, 2012**

**Before the Pennsylvania Senate Communications & Technology Committee**

Chairman Folmer and members of the Committee, I am Jackie McCarthy, Director of State Regulatory Affairs for CTIA-The Wireless Association®. CTIA is the international trade association representing wireless carriers, device manufacturers, and Internet service providers. I am here today to speak in support of Senate Bill 1345, which would promote mobile broadband deployment by expediting and streamlining the local review process for improvements to existing cell towers and other wireless facilities, and to request additional amendments that further this purpose.

Demand for wireless broadband is growing exponentially as new applications, devices, and technologies consume more bandwidth and attract more subscribers. Wireless providers continue to invest in, build out, and upgrade networks to compete on network quality. By 2012, U.S. wireless carriers' cumulative capital expenditures totaled more than \$335 billion, an increase of more than \$25 billion over the preceding 12-month period despite the challenging economic climate.<sup>1</sup> From energy usage to telecommuting to educational and governmental access, wireless broadband promises to increase efficiency, connectivity and information sharing. The economic and societal benefits brought about by wireless broadband require a robust infrastructure backbone, which in turn requires the ability to deploy wireless facilities

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<sup>1</sup> CTIA—The Wireless Association®, *Year-End Data Survey Results* (April 13, 2012), available at: <http://www.ctia.org/advocacy/research/index.cfm/AID/10316>.

where they are needed. Wireless providers and their infrastructure partners deployed over 30,000 cell sites in 2011, a 12% annual increase over 2010, to address these demands.<sup>2</sup>

Wireless communications are also a key component of the nation's 9-1-1 emergency response system. CTIA estimates that there are almost 300,000 wireless 9-1-1 calls made every single day. Emergency communications networks are updating public safety systems to "Next-Generation 9-1-1" technologies that will allow for new services and devices to complete calls to our nation's 9-1-1 centers while also providing accurate location information to assist first responders. Like all broadband-based technologies, next-generation 9-1-1 requires comprehensive infrastructure deployment.

Recent federal and state recognition of the importance of wireless infrastructure bears consideration by the Committee. In its National Broadband Plan, the Federal Communications Commission ("FCC") acknowledges that wireless infrastructure is critical for broadband deployment. The FCC's National Broadband Plan states that wireless networks rely on site deployment, and that securing rights to infrastructure deployment "is often a difficult and time-consuming process that discourages private investment."<sup>3</sup> To expedite this process, the FCC established a "shot clock" requiring local governments to make final decisions on proposed wireless facilities on existing structures within ninety (90) days, and on new tower proposals within one hundred fifty (150) days of receipt of a complete application.<sup>4</sup> FCC Chairman Julius Genachowski pointed to the red tape and delays entailed in the wireless siting process, and

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<sup>2</sup> See *id.*

<sup>3</sup> *Connecting America: The National Broadband Plan* at 127 (March 17, 2010), available at: <http://www.broadband.gov/plan/>.

<sup>4</sup> See Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance (Nov. 18, 2009), available at: <http://apps.fcc.gov/ecfs/document/view?id=7020393456>. More recently, a federal court affirmed the FCC's "shot clock," concluding that the 90-day and 150-day timeframes were lawful and noting evidence by CTIA and others supporting the FCC's conclusion that wireless service providers often face lengthy delays in the collocation and new wireless facility zoning applications. See *Arlington, TX vs. FCC*, No. 10- 60039 (Jan. 23, 2012), available at: <http://image.exct.net/lib/fefd167774640c/m/1/Shot+Clock+Order+CA5+Jan++23+2012.pdf>.



observed that expediting wireless siting could unleash \$11.5 billion in new broadband infrastructure investment in 2011-2012.<sup>5</sup> Earlier this year, Congress acknowledged the critical role of timely wireless facilities deployment by requiring streamlined local government approval for such facilities on existing structures.<sup>6</sup>

Last month, a Commonwealth Court affirmed a Zoning Hearing Board's decision to grant a variance for collocated antennas on a silo, citing the proposal's conformance to applicable setbacks, and finding that the antennas "would have minimal impact and help maintain the essential nature of the neighborhood."<sup>7</sup> Further, the court noted that "the involvement of the wireless communication provider...helped to lessen the degree of deviation from the Ordinance requested by the Property Owner and worked to ensure the minimum variance necessary for relief."<sup>8</sup> This recent decision is an example of how wireless facilities are designed to conform to applicable zoning codes and land uses to the maximum extent possible.

Senate Bill 1345 is consistent with national policies that encourage broadband deployment. By reforming local regulation and restrictions of wireless facilities on existing structures, Senate Bill 1345 will streamline approval processes at the municipal level while still allowing local control of conformance with relevant zoning and building code provisions. Senate Bill 1345 clarifies that local governments may "plan for and regulate wireless support structures" in conformance with relevant municipal ordinances, and that safety and structural integrity of these structures can be reviewed by building code officials.

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<sup>5</sup> Prepared Remarks of FCC Chairman Julius Genachowski at the Broadband Acceleration Conference, Washington, D.C., at 3 (Feb. 9, 2011), available at [http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/DOC-304571A1.pdf](http://fjallfoss.fcc.gov/edocs_public/attachmatch/DOC-304571A1.pdf).

<sup>6</sup> See Middle Class Tax Relief and Job Creation Act of 2012 § 6409(a) (A "state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of the tower or base station") ("Middle Class Tax Relief Act § 6409(a)"), available at: <http://docs.house.gov/billsthisweek/20120213/CRPT-112hrpt-HR3630.pdf>.

<sup>7</sup> *In re Appeal of Towamencin Township from the Decision Dated May 10, 2010* (April 3, 2012), available at: <http://caselaw.findlaw.com/pa-commonwealth-court/1597780.html>.

<sup>8</sup> *Id.*



In order to maintain consistency with federal policy, we respectfully request that Senate Bill 1345 be amended to provide streamlined treatment in Section 3(b) to wireless facilities that do not “substantially change” the physical dimensions of a tower or base station.<sup>9</sup> A definition of “substantial change” that conforms to federal historic preservation standards<sup>10</sup> would further the goals of expediting wireless infrastructure on existing facilities.

Senate Bill 1345 also clarifies federal preemption of local government consideration of radio frequency issues, and of local regulations that prohibit or have the effect of prohibiting wireless service.<sup>11</sup> The federal government’s exclusive jurisdiction over radio communications is predicated on a finding that national regulation is not only appropriate, but essential to the operation of a seamless, nationwide telecommunications network. Finally, Senate Bill 1345 provides a “shot clock” for local review of proposed wireless facilities; similar to the federal “shot clock,” this provision imparts certainty to both local governments and wireless service providers. We respectfully submit that, given consumer demand for and federal recognition of wireless service as critical 21<sup>st</sup> century infrastructure, Senate Bill 1345 furthers a compelling public purpose.

As wireless providers deploy 4G high-speed mobile broadband services to address exploding consumer demand, they need the option to consider siting wireless facilities on existing structures whenever possible. These facilities are increasingly critical to network performance as users demand these high-speed services, both in the home and on the go. By streamlining approval processes for these facilities across Pennsylvania, Senate Bill 1345 would significantly enable the deployment of mobile broadband.

Thank you for the opportunity to testify in support of this bill.

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<sup>9</sup> See *infra* at fn.6 for an example of this kind of language from the Middle Class Tax Relief Act § 6409(a).

<sup>10</sup> See e.g., Nationwide Programmatic Agreement for the Collocation of Wireless Antennas at Section I. C., available at: [http://www.achp.gov/docs/PA\\_FCC\\_Nationwide.pdf](http://www.achp.gov/docs/PA_FCC_Nationwide.pdf) (March 16, 2001), for a definition of “substantial change” in the context of federal- or state-designated historic properties.

<sup>11</sup> See 47 U.S.C. § § 253, 332(c)(7)(B)(i)(II).

