



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

25 West Fourth Street
Saint Paul, MN 55102

Telephone: 651-266-6700
Facsimile: 651-228-3220

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Reply Comment in WT Docket No. 13-238, et al.

Esteemed FCC Commissioners and FCC Staff:

Thank you for the opportunity to respond to comments submitted regarding the September 26, 2013 NPRM. We believe that our views and experiences can add valuable perspective to the rulemaking process. As you may be aware, Saint Paul is an urban municipality of approximately 285,000 people with several treasured historic districts and sites, a major regional employment center in our downtown, the State of Minnesota Capitol and government complex, proud neighborhoods, and a mix of productive industrial sites and natural areas along the Mississippi River, which winds through our city. Our reply comments follow below.

1. We would like to clarify that the City of Saint Paul does not have a municipal property preference for siting wireless facilities. There is no such preference either formally in our City's Legislative Code or informally expressed by staff, in contrast to the statement made about our city in the PCIA comments (p56). Also, it is hard to argue that our regulations have even *the effect* of creating a municipal property preference. Our experience is that Saint Paul's zoning regulations are very welcoming to wireless communication facilities and have allowed for the deployment of hundreds of facilities over the past few years in a timely and cost-effective manner, with the result being a city that is well-served by wireless broadband. No case has been cited by PCIA to the contrary and we are not aware of how such a misunderstanding may have arisen. Reflecting our local priorities, collocations are easily and regularly permitted through an administrative-level review in all zoning districts on non-historic properties, subject only to very basic development standards that do not differ between private and public ownership. Indeed, the CTIA filing (p18) actually cites the average speed with which the City of Saint Paul processed wireless facility applications from 2000 to 2010 (nearly all on private land) as a national example of how simply collocations can be processed.

2. It is very important to the City of Saint Paul that any rules enacted by the Commission preserve our role in protecting our historic resources. This requires several steps, including: (1) any definition for "substantially change the physical dimensions" must allow for consideration of design and context rather than instituting rigid numerical standards pertaining only to size; (2) the Commission should not prescribe who may review an application, nor should it prohibit approvals subject to conditions; (3) the collocation shot clock should not be reduced to

less than 90 days; and (4) the Commission should address DAS systems through modifications in the National Programmatic Agreements, as suggested by NCSHPO, rather than pursuing categorical exclusions or determining DAS systems to not be undertakings. We find these steps reasonable and not in conflict with the goal of accelerating broadband deployment. Also, we find that the City of Saint Paul, not the Commission, is in the best position to efficiently and adequately protect our historic resources due to our understanding and expertise with contextual issues. If the above positions are not adopted, then an additional essential step would be that (5) any definition for "existing wireless tower or base station" be limited to structures built for the sole or primary purpose of supporting communications antennas, and not buildings which may or may not currently contain wireless communication facilities.

Though, as noted by CTIA, the City of Saint Paul's wireless facility review process is very efficient for most applications, we find it of fundamental importance that adequate time and authority be maintained for our Heritage Preservation Commission to properly implement our local land use priority of historic preservation. The HPC must be allowed to review applications for work within designated historic districts or sites, to attach reasonable conditions to any approvals, and be given adequate time to complete a review—which could require 90 days or more for collocations, depending on the circumstances.

We strongly agree with comments from the City of Alexandria, et al, the District of Columbia, the City of Minneapolis, and many other local governments on these topics. We find the examples cited on pp15-17 in Exhibit B of the City of Alexandria, et al, filing to be persuasive and representative of common concerning situations in our city, for which there are reasonable and cost-effective wireless deployment alternatives. We offer the attached photosimulations as additional illustration of our concerns.

We recognize that our legitimate local land use priority of historic preservation is different from priorities in other localities (e.g. protecting mountain views in Tempe or ocean views along the California coast). However, those differing priorities and contexts suggest pursuing a collaborative approach focused on best practices rather than broad, one-size-fits-all rulemaking.

3. The Commission should find that Section 6409 does not apply to a local government acting in its proprietary role, including in rights-of-way. As the City of Minneapolis and others note, such a federal intrusion would be contrary to *Printz v. United States* and established principles of federalism. Additionally, as a practical matter, the City of Saint Paul wishes to leave open the possibility of allowing implementation of DAS or other small scale wireless technology in the public rights-of-way. However, we are unlikely to ever pursue that route if it means we must then allow a series of 20'-high, uncamouflaged antenna arrays wherever we previously permitted a small DAS antenna. We find the examples cited by City of Alexandria, et al, to be compelling in this regard.

Thank you for your attention to our comments. We look forward to remaining engaged in this process as the regulations are further amended and finalized.

Sincerely,



Paul Williams

Deputy Mayor, City of Saint Paul

Exhibit A: Photosimulations



Above: Iconic view of the Minnesota State Capitol from just south of the intersection of Smith and Cherokee Avenues in Saint Paul. **Below:** A new facility upon an existing city streetlight in the public right-of-way. The simulated height increase is only 5 feet, but is clearly substantial given its context. Notably, the width and design are more damaging than the height.





Above: Germain Landing neighborhood in Saint Paul. **Below:** A series of collocations upon a single-family house (potential “base station”).





Above: Central Presbyterian Church in Downtown Saint Paul.
Below: A series of collocations upon the steeple. The church does not currently have a stealth facility within the steeple, but if it did, would this addition be any less "substantial"?





Above: The historic Landmark Center in Downtown Saint Paul. **Below:** Left, a series of collocations totaling 20' in height that is clearly "substantial" given the context. Right, a cantilevered collocation. Failure to account for visual impact or method of attachment in this historic setting adjacent to Rice Park would be severely damaging.

