

FCC Issues Order to Help Speed Approval of Wireless Telecommunication Towers by Local Governments

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By [James B. Baldinger](#) and [Henry S. Wulf](#) On November 18, 2009, the Federal Communications Commission issued a Declaratory Ruling setting specific timeframes for local governments to act on applications for approval of new wireless transmission towers and tower collocations. The FCC ruling clarifies that the “reasonable period of time” within which Section 332(c)(7) of the federal Communications Act requires municipalities to rule on tower siting applications is limited to 90 days for collocation applications and 150 days for all other tower applications. If a jurisdiction fails to act within the applicable time period, the applicant may seek relief in court within 30 days thereafter.

In its press release accompanying the Ruling, the FCC expressed concern that many municipalities are unnecessarily delaying approving tower applications, which impedes “[t]he deployment of next generation mobile broadband networks [that] promise tremendous benefits for American businesses and consumers” The Commission expects that the establishment of specific time frames for local governments to act will expedite processing of tower siting requests in many cases.

The FCC’s Ruling is the result of a petition originally filed last year by CTIA – The Wireless Association® on behalf of its members in the wireless industry that sought to streamline the approval process for tower siting by local governments in three ways: (1) by establishing specific timeframes for acting on tower siting applications; (2) by prohibiting local governments from denying a tower application because service is already available in the area from another provider; and (3) by finding that a municipality’s blanket regulation requiring all towers to have a variance or waiver violates Section 253(a) of the Communications Act. The FCC granted the first two requests by CTIA and denied the third, finding that there was no evidence presented of a specific controversy and leaving the door open to a future petition when an actual dispute arises.

Although the FCC did not go as far as the CTIA requested – for example, it sought to have applications automatically deemed granted if a municipality fails to act within the established timeframe – we believe that the Ruling will provide tremendous assistance for wireless providers attempting to provide service to customers in jurisdictions that have previously sought to impede the construction of transmission towers. Hopefully, the clear timeframes and threat of litigation will be sufficient encouragement for municipalities to expedite tower approvals and will help minimize the need for costly and time consuming lawsuits.

[Click here to view the Federal Communications Commission Order.](#)

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