Joint Venture Silicon Valley
March 31 2015
• Background
  • From the “Middle Class Tax Relief and Job Creation Act of 2012” – passed Feb. 2012
• FCC Issued Order Oct 2014 Interpreting and Implementing Act
  • With Regulations
  • Most Effective April 8
  • Appeals have been filed, no stay requested, expedited briefing
(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, 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 such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves—

(A) collocation of new transmission equipment;
(B) removal of transmission equipment; or
(C) replacement of transmission equipment.
What Is An ““Eligible Facility””

- Any Application To Modify
  - Collo (e.g., add, subtract, replace equipment)
  - Doesn’t have to be requesting carrier’s site
- Existing – Need to have wireless facilities (whether or not operating)
  - either as approved in zoning or
  - zoning exempt when built
- Sites are “Tower” or “Base Station”
  - “Tower” is limited to structures built to hold antennas,
  - Base station includes the structure holding antennas (e.g., rooftop includes the building, electric lattice tower includes lattice tower)
Traditional Towers (outside PROW)

- Increase height 10% or 20’, whichever is greater
- Protrusion from tower 20’ or more than width of tower at level of appurtenance, whichever is greater

- Does not require excavation outside of existing “site”
- No more than 4 new equipment cabinets

- Does not defeat concealment element
- Complies with all COAs
DAS/Small Cell (and Vertical Installations on Base Stations)

- Does not defeat concealment element
- Complies with all COAs

- Increase height 10% or 10’, whichever is greater
- Protrusion from edge of structure no more than 6’
- Does not require excavation outside of existing “site”

- No more than 4 new equipment cabinets
- If no preexisting ground cabinets, then no new ground cabinets
- If preexisting ground cabinets, then cannot add more than 10% larger in height or volume than any other cabinets associated with the structure
Rooftops (Horizontal Base Stations)

- Increase height 10% or 10', whichever is greater. Baseline is existing structure height (e.g., rooftop or an existing penthouse).
- Protrusion from edge of structure no more than 6'
- No more than 4 new equipment cabinets
- If no preexisting ground cabinets, then no new ground cabinets
- If preexisting ground cabinets, then cannot add more than 10% larger in height or volume than any other cabinets associated with the structure

- Does not defeat concealment element
- Does not require excavation outside of existing “site”
- Complies with all COAs
Shot Clock & Implementation

- 6409 has 60 day shot clock
- Regulations go into effect April 8
- OMB paperwork rules will take longer – 90+ days
  - NOIs
  - “Deemed Effective” Remedy
- Review Limited To Whether Application Meets 6409
  - Can, but don’t have to, implement a 6409 process