
Possible Resolutions to Twilight and Other Non-Compliant Towers



OVERVIEW

- Background on non-compliant towers
- Benefits of resolving
- Need to recognize harms they have caused
- Key elements of any path forward
- Discussion of possible approaches

BACKGROUND

- Since 2001, thousands of towers built by and for licensees without Section 106 review
 - “Twilight towers” built 2001-2005 – more than 4,200 nationwide
 - By definition, Twilight Towers have been in place for at least 10 years
 - Additional towers since 2005, mostly not by major carriers or tower companies

BACKGROUND

- Collocation not currently permitted without post-construction review
 - Post-construction review of every tower presents major logistical challenges
 - Resource constraints on Tribal Nations, SHPOs, local preservation interests, FCC
 - Impossible to identify properties that are already destroyed

IMPORTANCE OF FINDING A RESOLUTION

- Public benefit to making existing towers available for collocation
 - Less intrusive – for environment and historic/cultural sites – than new towers
 - Vast majority likely have no adverse effects
 - Enabling collocation facilitates wireless and wireless broadband coverage nationwide
 - Congress directed FirstNet to leverage existing infrastructure

RESOLUTION MUST RECOGNIZE HARMS

- Identify and acknowledge harm to historic and cultural properties caused by towers with adverse effects
- Recognize harm to review process from past non-compliance for all of these towers
- Recognize commercial/competitive advantages gained from noncompliance
- Ensure incentive to comply going forward

ELEMENTS OF RESOLUTION

- Identify and Address “Problem” Towers
 - Towers with adverse effects would not be automatically available for collocation
 - Challenge is to devise efficient and effective process for identifying them
 - Companies must commit to working with Tribal Nations, SHPOs, and local interest groups to address effects

ELEMENTS OF RESOLUTION

- Preservation/compliance support
 - Funding commitment by parties that built in violation of rules
 - After support provided, towers without adverse effects would be available for collocation
 - Details TBD, but aim for an objective approach

ELEMENTS OF RESOLUTION

- Ultimate vehicle may be program alternative under ACHP regulations

LET'S DISCUSS POSSIBLE APPROACHES

- We are offering 3 approaches for discussion only
 - FCC doesn't endorse or support any of these in particular
 - Offered only to move the conversation forward
- We welcome your views on these ideas
- We encourage you to suggest additional approaches
- We are making similar presentations to other stakeholders

APPROACH 1:

Tribal/SHPO Review of Tower Lists

- Tower owners make lists available to FCC, Tribal Nations, SHPOs, and local interests
 - All-or-nothing: tower owners may not pick and choose which to list
 - Tribal Nations, SHPOs, and local interests review and flag those with adverse effects
 - Owners identify towers for which they have received objections in the past
 - Towers without objections are cleared, others subject to further review
- Tower owners fund a preservation/compliance support program
 - Preservation/compliance support details TBD, but aim for an objective approach

APPROACH 1:

Tribal/SHPO Review of Tower Lists

- **Possible benefits**
 - Preservation/compliance support
 - Tribal Nations, SHPOs, and local interests have access to lists of towers
- **Possible challenges**
 - Substantial time needed for review
 - Challenge to implement effective preservation support program
 - Difficult to objectively assess towers subject to objections

APPROACH 2:

Tribal/SHPO Identification of Problem Towers Based on Existing Knowledge

- Objections made without lists from tower owners
 - Tribal Nations, SHPOs, and local interests given defined time period to identify any existing towers that they believe have adverse effects
 - FCC and Owners also identify towers about which they have received objections in the past
 - Towers without objections are cleared, others subject to further review
- Tower owners fund a preservation/compliance support program
 - Preservation/compliance support details TBD, but aim for an objective approach

APPROACH 2:

Tribal/SHPO Identification of Problem Towers Based on Existing Knowledge

- Possible benefits
 - Preservation/compliance support
 - Faster process
 - Lower review burden
- Possible challenges
 - Tribal Nations, SHPOs, and local interests do not receive lists of towers prior to making objections
 - Tribal Nations, SHPOs, and local interests lack information to determine when towers were built and whether review completed
 - Difficult to objectively assess towers subject to objections

APPROACH 3:

Existing Section 106 Process (NPA) Format

- Use the existing § 106 process format to review non-compliant towers individually
 - Review would cover the underlying tower as well as collocation
 - Would require assurances that Tribal Nations and SHPOs would perform reviews even though towers already built. Participate in the same way they do for proposed towers.
- Tower owners fund a preservation/compliance support program
 - Preservation/compliance support details TBD, but aim for an objective approach

APPROACH 3:

Existing Section 106 Process (NPA) Format

- Possible benefits
 - Utilizes familiar process
 - Ensures individual review of each tower
- Possible challenges
 - Substantial time and resources needed to complete
 - Delay may impact public safety and could result in new builds rather than collocations
 - Some SHPOs/Tribal Nations may decline to review
 - Challenging to ensure that tower owners identify all towers for review

PRESERVATION/COMPLIANCE SUPPORT

- Issues to resolve
 - What form(s) should it take?
 - Support for individual Tribal Nations, SHPOs, local interests?
 - If so, how to allocate?
 - Support for broad, in-depth compliance training initiative to improve compliance going forward?
 - Support for a comprehensive third-party assessment of towers' aggregate impacts?

PRESERVATION/COMPLIANCE SUPPORT

- Provide support via a “suite” of options? Examples:
 - Robust compliance training requirements for tower industry
 - Survey work
 - Analysis of site eligibility for National Register listing
 - Physical mitigation (e.g., signage, plantings, etc.)
 - Direct financial support for Tribal preservation work
 - Comprehensive analysis of towers’ aggregate impacts

- Use preservation support to address towers with adverse effects?

DISCUSSION

- Reactions to these approaches
- Additional ideas
- Questions
- Next Steps

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