

are not.” We agree. The services provided by over-the-top VoIP providers and facilities-based VoIP providers are not functionally equivalent—the latter provides the physical connection to the last-mile facilities used to serve an end user, and the former does not. We thus reject the overbroad suggestion in the *2015 Declaratory Ruling* that “disparate treatment based on technological distinctions between facilities-based and over-the-top providers directly contradicts the advancement of ‘competitive or technological neutrality.’” Where there are material technological distinctions, differences in treatment can be appropriate. The reasoning underpinning the *2015 Declaratory Ruling* is circular: It is only by excluding interconnection from the scope of end office switching that the *2015 Declaratory Ruling* could have treated differences between facilities-based and over-the-top VoIP providers as immaterial. Our interpretation “embraces the concept of compensation for new and non-traditional functionality,” but not at the expense of a departure from the historical standard for functional equivalency that we find represents the best interpretation of the VoIP Symmetry Rule.

25. In departing from the Commission’s interpretation of the VoIP Symmetry Rule in the *2015 Declaratory Ruling*, we are mindful of the fact that “an agency is free to change its mind so long as it supplies ‘a reasoned analysis.’” The Supreme Court has observed that there is “no basis in the Administrative Procedure Act or in our opinions for a requirement that all agency change be subjected to more searching review. . . . [I]t suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change of course adequately indicates.” Relevant precedent holds that we need only “examine the relevant data and articulate a satisfactory explanation for [our] action,” a duty we fully satisfy here. The “possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency’s finding from being supported by substantial evidence.” Thus, contrary to CenturyLink’s assertion that we cannot or should not depart from the conclusion of the *2015 Declaratory Ruling*, we are “entitled to assess administrative records and evaluate priorities” in light of our current policy judgments as well as in response to a remand order from the court. Indeed, by vacating the *2015 Declaratory Ruling*

and remanding the matter to us, the D.C. Circuit required us to reevaluate the Commission’s reasoning in the *2015 Declaratory Ruling* and take into the account the weaknesses in that ruling that the D.C. Circuit identified in its opinion.

26. In the interest of further clarity, we find that this Declaratory Ruling should have retroactive effect. As a general matter, declaratory rulings are adjudicatory and are presumed to have retroactive effect. Clarifying the law and applying that clarification to past behavior are routine functions of adjudications. As various commenters point out, the applicability of the VoIP Symmetry Rule has not been clear. This retroactive clarification is necessary to provide clarity on the meaning of the VoIP Symmetry Rule. As such, we reject the assertion that the interpretation of the VoIP Symmetry Rule adopted in this Order may not be applied retroactively because such interpretation would result in “manifest injustice” and that our revised interpretation of the VoIP Symmetry Rule may be applied only prospectively. Instead, retroactivity is necessary to prevent an undue hardship being worked upon those parties who properly interpreted the VoIP Symmetry Rule and have been in disputes ever since.

#### IV. Ordering Clauses

27. Accordingly, *it is ordered* that, pursuant to sections 4(i), 201, 202, and 251 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 202, and 251, and sections 1.1 and 1.2 of the Commission’s rules, 47 CFR 1.1, 1.2, this Order on Remand and Declaratory Ruling in WC Docket No. 10–90 and CC Docket No. 01–92 *is adopted*.

28. *It is further ordered* that the Petition of CenturyLink for a Declaratory Ruling filed May 11, 2018 *is denied*.

29. *It is further ordered* that, pursuant to section 1.103 of the Commission’s rules, 47 CFR 1.103, this Order on Remand and Declaratory Ruling *shall be effective* upon release.

Federal Communications Commission.

**Marlene Dortch**,  
Secretary.

[FR Doc. 2020–01658 Filed 1–29–20; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1238; FRS 16434]

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission’s burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before March 30, 2020. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–1238.

*Title:* First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.

*Form Number:* Not applicable.

*Type of Review:* Extension of an approved collection.

*Respondents:* Business or other for-profit entities, not-for-profit institutions, and State, local, or Tribal governments.

*Number of Respondents and Responses:* 71 respondents; 765 responses.

*Estimated Time per Response:* 1 hour—5 hours.

*Frequency of Response:* Third party disclosure reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 7, 301, 303, 309, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 157, 301, 303, 309, 332, and Section 106 of the National Historic Preservation Act of 1966, 54 U.S.C. 306108.

*Total Annual Burden:* 2,869 hours.

*Total Annual Cost:* \$82,285.

*Privacy Impact Assessment:* There are no impacts under the Privacy Act.

*Nature and Extent of Confidentiality:* No known confidentiality between third parties.

*Needs and Uses:* The Commission will submit this information collection for approval after the comment period to obtain the full three-year clearance from the Office of Management and Budget (OMB). The Commission is requesting OMB approval for disclosure requirements pertaining to the First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (First Amendment) to address the review of deployments of small wireless antennas and associated equipment under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108 (formerly codified at 16 U.S.C. 470f). The FCC, the Advisory Council on Historic Preservation (Council), and the National Conference of State Historic Preservation Officers (NCSHPO) amended the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (Collocation Agreement) to account for the limited potential of small wireless antennas and associated equipment, including Distributed Antenna Systems (DAS) and small cell facilities, to affect historic properties. The Collocation Agreement addresses historic preservation review for collocations on existing towers, buildings, and other non-tower structures. Under the Collocation Agreement, most antenna collocations on existing structures are

excluded from Section 106 historic preservation review, with a few exceptions defined to address potentially problematic situations. On August 3, 2016, the Commission's Wireless Telecommunications Bureau, ACHP, and NCSHPO finalized and executed the First Amendment to the Collocation Agreement, to tailor the Section 106 process for small wireless deployments by excluding deployments that have minimal potential for adverse effects on historic properties.

The following are the information collection requirements in connection with the amended provisions of Appendix B of Part 1 of the Commission's rules (47 CFR pt.1, App. B):

- Stipulation VII.C of the amended Collocation Agreement provides that proposals to mount a small antenna on a traffic control structure (*i.e.*, traffic light) or on a light pole, lamp post or other structure whose primary purpose is to provide public lighting, where the structure is located inside or within 250 feet of the boundary of a historic district, are generally subject to review through the Section 106 process. These proposed collocations will be excluded from such review on a case-by-case basis, if (1) the collocation licensee or the owner of the structure has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties; and (2) the structure is not historic (not a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places) or considered a contributing or compatible element within the historic district, under certain procedures. These procedures require that applicant must request in writing that the SHPO concur with the applicant's determination that the structure is not a contributing or compatible element within the historic district, and the applicant's written request must specify the traffic control structure, light pole, or lamp post on which the applicant proposes to collocate and explain why the structure is not a contributing element based on the age and type of structure, as well as other relevant factors. The SHPO has thirty days from its receipt of such written notice to inform the applicant whether it disagrees with the applicant's determination that the structure is not a contributing or compatible element within the historic district. If within the thirty-day period, the SHPO informs the applicant that the structure is a

contributing element or compatible element within the historic district or that the applicant has not provided sufficient information for a determination, the applicant may not deploy its facilities on that structure without completing the Section 106 review process. If, within the thirty day period, the SHPO either informs the applicant that the structure is not a contributing or compatible element within the historic district, or the SHPO fails to respond to the applicant within the thirty-day period, the applicant has no further Section 106 review obligations, provided that the collocation meets the certain volumetric and ground disturbance provisions.

The First Amendment to the Collocation Agreement established new exclusions from the Section 106 review process for physically small deployments like DAS and small cells, fulfilling a directive in the Commission's *Infrastructure Report and Order*, 80 FR 1238, Jan. 8, 2015, to further streamline review of these installations. These exclusions will continue to reduce the cost, time, and burden associated with deploying small facilities in many settings and provide opportunities to increase densification at low cost and with very little impact on historic properties.

Facilitating these deployments thus directly advances efforts to roll out 5G service in communities across the country.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2020-01734 Filed 1-29-20; 8:45 am]

**BILLING CODE 6712-01-P**

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## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at [Secretary@fmc.gov](mailto:Secretary@fmc.gov), or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website ([www.fmc.gov](http://www.fmc.gov)) or by contacting the Office of Agreements at (202) 523-5793 or [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov).

*Agreement No.:* 201330.

*Agreement Name:* CMA CGM/COSCO Shipping Vessel Sharing Agreement Brazil-Caribbean/U.S. Gulf.