

**Before the
Navajo Nation Telecommunications Regulatory Commission**

In the Matter of)
)
Navajo Nation Telecommunications Tower) No. NNTRC-20-001
Siting Regulations)
)
)
_____)

New Comment date: June 11, 2021
New Reply Comment date: June 26, 2021

ORDER EXTENDING COMMENT PERIOD

1. The Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) is authorized by the Navajo Nation Council to promulgate such rules and regulations as are appropriate for the accomplishment of its purpose, authority, duties and responsibilities pursuant to the Navajo Nation Telecommunications Regulatory Act (“Act”), 21 N.N.C. §§ 501 et seq., and to enforce such rules and regulations.

2. The NNTRC is established as an independent Commission under the Office of the President and the Vice-President pursuant to 2 N.N.C. § 3451.

3. On February 11th, 2021, The NNTRC published in [other publications like newspapers] a Notice of Proposed Rulemaking (NPRM), requesting comments on proposed rules related to the siting of telecommunications towers and antennas on Navajo lands. Due to technical difficulties with our website, we were unable to publish the NPRM, and the proposed regulations on NNTRC.ORG. Specifically, our website was supported by Adobe Flash which is an application for developing rich content, user interfaces, and web applications. Adobe Flash was no longer supported on December 31st, 2020. The original comment period formally closed on March 13, 2021,

4. In order to provide full notice and receive comments from relevant stakeholders, the NNTRC will be providing an extension of the comment period. In this Extension Order, published on May 11, 2021, The NNTRC hereby extends the comment period until **June 11, 2021**. Reply Comments will be due **June 26, 2021**. The NNTRC will be publishing the original NPRM, Proposed Regulations Update, and the NPRM – Extension of Comment Period on

*<https://www.navajo-nsn.gov/PDF%20Files/2021/Mar/NPRM%20Extension%20Order%20jed%20comments%203%2010%2021.pdf>

WWW.NAVAJO-NSN.GOV* (Posted under Public Services Tab) effective May 14, 2021. The NNTRC will also publish in the next edition of the Navajo Times on May, 20, 2021.

5. The same NPRM parameters will be applied to this extension which includes:

The Commission shall take no action on any proposed rule or regulation for at least 45 days from the date of Extension Notice.

The anticipated date to schedule a public hearing will be on June 28, 2021, Public Hearing Meeting will be held on teleconference software due to COVID-19 precautions and restrictions.

All comments are due no later than 5:00PM, on June 11, 2021. Please refer to section 6 below for instructions. These comments will be public and placed on the NNTRC website as soon as practicable.

The proposed date to enact the proposed Draft Telecommunications Regulations will be on July 12th, 2021.

6. ADDRESSES:

Comments may be submitted in the following method:

Email comments to comments@nntrc.org

Please also indicate if you would like to partake in the Public Hearing Meeting.

Background

7. The NNTRC together with the Navajo Land Department (“NLD”) and the General Land Development Department (“GLDD”), have been working for several years to develop an updated and comprehensive set of regulations for telecommunications and broadband tower sites on the Navajo Nation.

8. The latest draft of these regulations are attached as Appendix A (“the Draft”). It is the intent of the Navajo Nation to adopt regulations based on the attached Draft. Comments are requested on the Draft generally, and in response to the specific questions raised below.

*<https://www.navajo-nsn.gov/PDF%20Files/2021/Mar/NPRM%20Extension%20Order%20jed%20comments%203%2010%2021.pdf>

Specific Issues Upon Which Comments are Requested

9. Enforcement Mechanisms.

Section Two of the Draft specifies:

The Executive Director of the Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) is hereby delegated the authority to enforce compliance with all Navajo Nation laws and regulations relating to the transmission and receipt of radio frequencies for communications purposes, including without limitation, tower lighting and marking, and compound fencing and security, including all Federal Communications Commission rules, regulations, and orders.

Delegating the NNTRC Executive Director the power to “enforce compliance” with Navajo Nation laws appears to be inconsistent with the enforcement powers of the NNTRC generally. Specifically, enforcement of the Telecommunications Regulatory Act (the “Act”) requires that the NNTRC is the body to carry out the enforcement or through the courts of the Navajo Nation. 21 N.N.C. § 506(A). NNTRC contemplates modifying this section of the Draft to place the enforcement power in the NNTRC as a whole. Comments on this approach are requested.

11. Complaints to be Decided by NNTRC.

Section 6 provides that: “Any dispute or complaint by a party seeking to Collocate on a Tower or Non-Tower Structure relating to discriminatory treatment or alleging non-commercially reasonable terms by the owner of the Tower or Non-Tower Structure shall be heard and decided by the NNTRC within thirty (30) days of filing of a formal complaint with NNTRC, and NNTRC will take appropriate actions as authorized under the Telecommunications Act.” NNTRC seeks comments on whether the 30-day decision period is adequate to hear from all sides and make a decision. NNTRC contemplates modifying the Draft to state that NNTRC will issue a decision within forty-five (45) days of receiving comments from all parties involved in the dispute. The Draft also does not specify an appeals process for NNTRC decisions. NNTRC would note that under 21 N.N.C. § 516(F), the Act outlines an appeals process for any party “adversely affected’ by final decisions or orders by the NNTRC, that person may seek judicial review by first filing a “notice of appeal.” 21 N.N.C. § 516(F). NNTRC anticipates adding in this language to the final regulations and seeks comments on this approach.

Ordering Clause

9. Accordingly, **IT IS ORDERED THAT**, pursuant to the statutory authority of the NNTRC under 2 N.N.C. §§ 3451-55 and 21 N.N.C. §§ 501-529, this Notice of Proposed Rulemaking is

HEREBY ADOPTED.

Adopted: May 14, 2021

The Navajo Nation Telecommunications Regulatory Commission

/s/

Arvin Trujillo

Chairperson

Navajo Nation Telecommunications Regulatory Commission