

Verizon Wireless 60-Day Eligible Facility Request Modification of Existing Wireless Tower not in the Right-of-Way

Request Date: February 28, 2025

Jurisdiction: City of Aurora

Departments: Planning Department

Site Address: 10000 E. Yale Avenue, Aurora CO 80231

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This document serves as Verizon Wireless's Eligible Facilities Request to modify an existing wireless facility at the above-referenced site address. This Eligible Facilities Request must be approved administratively under Section 6409 of the Federal Spectrum Act and Federal Communications Commission ("FCC") rules. Review by the City is limited to determining whether the proposed modification qualifies as an Eligible Facilities Request that does not substantially change the physical dimensions of the wireless tower. All permits necessary to commence construction must be approved within 60 days of the request date set forth above, subject to tolling for incompleteness.

For this request, Verizon Wireless attaches the following applications for all the permits required by the City to commence construction of the modification:

1). Telecommunications Permit Application

Verizon Wireless submits the application fees in the amount of \$722.00 with this application by check or electronic payment.

Project Description

Verizon Wireless is seeking approval from the City of Aurora Planning Department to modify its existing telecommunication facility located at 10000 E. Yale Avenue, Aurora CO 80231.

FCC Rules for Eligible Facilities Requests

The Spectrum Act states that "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."¹ An "eligible facilities request" is defined to include any collocation, removal, or replacement of existing equipment.²

The FCC adopted rules providing legally binding guidance on key terms of the Spectrum Act, notably defining "substantial change" with the six thresholds described below.³ The FCC requires that qualifying eligible facilities requests be approved within 60 days, subject to tolling for incompleteness.⁴ The 60-day period begins when an applicant takes the first procedural step required by a local government, and submits written documentation.⁵ The only submittal documents a local government can require are those relevant to determining if a proposed modification qualifies

as an eligible facilities request.⁶ If a local government does not render a decision within the 60-day period, an eligible facilities request can be deemed granted by operation of law.⁷

The Proposed Modification Does Not Constitute a “Substantial Change”

Below are the FCC’s six “substantial change” thresholds for a wireless tower not in the right-of-way,⁸ each followed by an explanation that the proposed modification does not exceed that threshold.

- 1) It increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater.

The facility height will be increased by 20 feet in compliance with the above provision.

- 2) It involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

No addition of appurtenance.

- 3) It involves the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four.

Does not involve the installation of more than the standard number of new equipment cabinets for the technology involved.

- 4) It entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which 30 feet is measured excludes any access or utility easements currently related to the site. The “site” is as defined at 47 C.F.R. § 1.6100(b)(6).

No excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction.

- 5) Would defeat the concealment elements of the eligible support structure.

No change to concealment elements.

- 6) Does not comply with conditions associated with the siting approval of the construction or modification of the existing facility, unless the non-compliance is due only to a change in height, width, etc., that does not exceed the first four thresholds.

There are no prior conditions of approval that would render the modification to be non-compliant, aside from any conditions that would be preempted by the first four “substantial change” thresholds.

In sum, the modification clearly qualifies as an “Eligible Facilities Request” under the Spectrum Act and FCC rules, because it does not exceed any of the thresholds such that it would “substantially change” the physical dimensions of the existing wireless tower. Failure to process this Eligible Facilities Request and approve all necessary permits within 60 days may result in the request being deemed granted by operation of law.

¹ 47 U.S.C. § 1455(a)(1).

² 47 U.S.C. § 1455(a)(2).

³ *See* Report and Order FCC 14-153, 29 FCC Rcd. 12865 (FCC October 17, 2014); *see also* Report and Order FCC 20-153, 85 FR 78005 (FCC October 27, 2020).

⁴ *See* 47 C.F.R. § 1.6100(c)(2), (3).

⁵ Declaratory Ruling FCC 20-75, 35 FCC Rcd 5977, ¶ 16 (FCC June 9, 2020).

⁶ *See* 47 C.F.R. § 1.6100(c)(1).

⁷ *See* 47 C.F.R. § 1.6100(c)(4).

⁸ *See* 47 C.F.R. § 1.6100(b)(7).