Before the
Federal Communications Commission
Washington DC 20554

In the Matter of:	)	
	)	
Delete, Delete, Delete	)	GN Docket No. 25-133
	)	
Implementing Executive Order 14192 Of January 31, 2025	)	

REPLY COMMENTS OF WIRED BROADBAND, INC.

ON DEREGULATION

ON BEHALF OF AMERICANS INJURED AND DISABLED

FROM ELECTROMAGNETIC RADIATION

April 28, 2025

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FILING PARTIES

The parties listed in Appendix B (attached hereto and incorporated herein by this reference) collectively constitute the "Filing Parties," have granted permission to submit these Comments on their behalf, and join together to submit these Comments.

TABLE OF CONTENTS

Executive Summary

Wired Broadband, Inc., on behalf of Americans injured or disabled by electromagnetic radiation and in conjunction with the filing parties, respectfully submits these comments, replying to the comments submitted by others in this docket.

Our reply comments are focused around the following themes: (1) cooperative federalism where local government and residents have a greater voice in determining what is best for their communities, (2) promoting technological advancements that are subject to free market forces that foster competition based on safety and product liability to produce the best products and services for Americans, (3) rigorous protection of the "human environment" as required under NEPA and protecting the public interest, (4) protecting the public interest, (5) accounting rules and (6) potential constitutional violations of "streamlining" the permitting process.

General Note on NEPA: As a general note, for *every* rule change or deletion that the FCC makes or seeks to make, whether arising from this docket or any other docket, such change or deletion should be treated as a major federal action and undergo review under the National Environment Policy Act (NEPA). NEPA Section 106 states:

> "An agency shall issue an environmental impact statement with respect to a proposed agency action requiring an environmental document that has a reasonably foreseeable significant effect on the quality of the human environment."[1]

NEPA review includes consideration not only of impacts on natural resources and ecosystems, such as agriculture and agricultural yields, but also on human health. To date, the FCC has virtually ignored the nonthermal impacts of radiofrequency radiation on humans and the environment. The Commission is arguably already in breach of NEPA by having issued so many regulations without subjecting these regulations to NEPA review. The FCC must do its part to contribute to the Trump Administration's commitment to Make America Healthy Again; this starts with reviewing the potential impact of *every* one of its contemplated actions on humans and the environment. Furthermore, despite the deletion of CEQ rules,[2] FCC remains obligated to follow its statutory regulations under NEPA.In fact the interim final rule issued by CEQ deleting the current rules stated:

> Rather, NEPA requires Federal agencies to consider the environmental effects of proposed actions as part of agencies' decision-making processes.[3]

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[1] 42 USC 4336 https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title42-section4336&num=0&edition=preli

[2] https://www.federalregister.gov/documents/2025/02/25/2025-03014/removal-of-national-environmental-policy-act-implementing-regulations

[3] Ibid I.A.

As an example, the FCC seeking to "streamline" the spectrum allocations requires NEPA review to assess whether these spectrum actions will increase the densification, exposure levels, or exposure types of radiofrequency radiation in the environment, and if so the impacts on humans and the environment from such action.

(1) **Ensuring Cooperative Federalism**

We agree with the joint filing of the National Association of Counties, National League of Cities, and the U.S. Conference of Mayors to eliminate orders issued between 2018 and 2020 that have undermined local control over broadband and wireless infrastructure deployment.[4]

a. Deleting: Small Cell Order – Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79; WC Docket No. 17-84
b. Deleting: 5G Upgrade Order - Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012, WT Docket No. 19-250

We agree with their assessment:

a. **"Section 6409(A) of the Spectrum Act of 2012.** Section 6409(A) was intended for simple upgrades to existing wireless networks, not new builds or major changes. But "FCC's 2020 Order substantially limited local oversight and effectively created pathways for wireless infrastructure owners to conduct end-runs around local oversight through manipulation of process. While the shot clock for review remained the same, the 2020 Order limited the ability of localities to enforce a reasonable starting point for that shot clock, potentially allowing applicants to run the timer out through informal communications or incomplete applications until the application is deemed granted by federal law. It also substantially limited the ability of local governments to control the expansion of existing cell towers over time unless all eventual modifications were accounted for in the initial permitting of the first build of the site - a high bar to clear as technology and infrastructure, as well as concealment technologies, constantly evolve. Congress created a carveout for these Eligible Facilities Requests in anticipation of them being minor

[4] https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-133*%22)+AND+filers.name:(%22National%20Association%20of%20counties%22)).

changes to existing sites - which does not describe all activities now covered by the 2020 Order." [5]

b. **"5G Upgrade Order** - Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012, WT Docket No. 19-250. "This 2020 Report and Order,2 intended to implement Section 6409 (A) of the Spectrum Act of 2012, has created unnecessary burdens for localities . . . the FCC's 2020 Order substantially limited local oversight and effectively created pathways for wireless infrastructure owners to conduct end-runs around local oversight through manipulation of process. While the shot clock for review remained the same, the 2020 Order limited the ability of localities to enforce a reasonable starting point for that shot clock, potentially allowing applicants to run the timer out through informal communications or incomplete applications until the application is deemed granted by federal law. It also substantially limited the ability of local governments to control the expansion of existing cell towers over time unless all eventual modifications were accounted for in the initial permitting of the first build of the site - a high bar to clear as technology and infrastructure, as well as concealment technologies, constantly evolve. Congress created a carveout for these Eligible Facilities Requests in anticipation of them being minor changes to existing sites - which does not describe all activities now covered by the 2020 Order."[6]

(2) Promoting a Free Market Economy

a. **Broadband labels should be supported**

We disagree with the Taxpayers Protection Alliance and the NCTA on the diminution or elimination of Broadband "nutrition" (Docket 22-86). There's nothing complicated or too technical or even costly. All of the food companies and pharmaceutical companies have "nutrition" labels on their products. Also, it is common for the telecommunications industry to have rate cards identifying the costs of their products and services. Why not extend provide them to the consumers? It is critical especially at point of sale, to ensure that there are no hidden costs. It simply delineates clearly the prices for various services, discounts and bundles, the speeds, monthly data charges, network and privacy policies, customer support number, the FCC's Consumer Resource Center and where to file a complaint. It also makes it easier for the consumer to compare services and pricing. This labeling providing full

[5] Ibid.
[6] Ibid.

disclosure of information to the consumer is necessary for the market to function efficiently. This would incentive industry to provide technological advancements at prices that consumers want to pay, with market forces at play.

We disagree with the U.S. Chamber of Commerce to eliminate broadband labels at the point of sale, otherwise defeats the purpose of alerting a customer of all possible fees before they commit to buying the service.[7] If food companies can provide nutrition labels, then the communications industry can do so, as well.

We disagree with the CTIA.[8]

i. CG Docket NO. 22-2[9] should not be closed as it is in the public interest to determine if the rules for broadband labeling should be more prescriptive, rather than foreclose further examination.

ii. That a broadband label at point of sale and other requirements violate First Amendment rights, would, at best, be a case of first impression. The cases cited by CTIA are unavailing. One case deals with false statements in advertising made by an attorney on contingency-based cases and the other deals with a law requiring various disclosure requirements of a reproductive health clinic to its patients. In the former, the court denied any First Amendment protection for failure to disclose that his clients would still be responsible for costs, but agreed with such protection in his inclusion of an illustration. In the latter, the court denied an injunction on First Amendment grounds, stating that the law was facially neutral with general applicability and therefore survived scrutiny under rational basis review. Both cases were decided by the U.S. Supreme Court. The first case seems inapposite, while the second case demonstrates that the broadband label requirement, being facially neutral with general applicability, would survive First Amendment scrutiny.[10]

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[7] https://www.fcc.gov/ecfs/search/search-filings/filing/10411184024497.

[8] https://www.fcc.gov/ecfs/search/search-filings/filing/10411175703423 referencing 47 CFR Sec 8.2, 47 CFR Sec 8.2(a)(1)-(7) Docket NO. 22-2

[9] Broadband Labels Further Notice of Proposed Rulemaking ("FNPRM") should proceed as this is in the public interest. Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, (rel. Nov. 17, 2022).

[10] See Zauderer v. Office of Disciplinary Counsel of Supreme Court, 471 U.S. 626, 651 (1985); Nat'l Inst. of Fam. & Life Advocs. v. Becerra, 138 S. Ct. 2361, 2372 (2018).

b. Steamlining the permitting process really means overruling local government

We disagree with the CTIA. It seeks to streamline the permitting process, with "light touch regulation" for companies while imposing heavy-handed regulations on local governments. This lop-sided approach rewards market inefficiencies, otherwise known as market failure or market distortion, where the public is compelled to be exposed to a product or service that they do not want or need, and distorts market forces of supply and demand. Local government is in the best position to determine the responsible deployment of communications infrastructure in their community, not industry. Moreover, Two-thirds of Americans prefer fiber.[11] In fact, when the Affordable Connectivity Program (ACP) ended, wireline services retained 90% of subscribers while wireless services lost 80% and satellite services also had losses.[12] Over 90% of Americans won't buy or rent a home near a cell tower.[13] The regulations set forth in Appendix A hereto to be clarified or eliminated have contributed to market failure or market distortion that impede competition. Without competition, there is no societal benefit to ensure that the best products and services with product liability to ensure that for-profit corporations compete on safety. True advancement in technology occurs when there is accountability and where technology benefits society, and not industry at the expense of society.

"Permitting reform" takes away local control. We disagree with the U.S. Chamber of Commerce (COC) on permitting reform.[14] To accelerate deployment without accountability to the public; there is no mention of serving the public interest. We have been receiving numerous complaints from around the country complaining about the irresponsible placement of cell towers near residences. The radiation cannot be shut off and is irradiating people within their homes 24/7, making their homes into radiation zones and creating clusters of chronic disease. That is not a free market economy of supply and demand particularly in

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[11] https://www.fibre-systems.com/article/fiber-connect-2023-two-thirds-us-consumers-prefer-fibre?iframe=1; see also, "The Market Has Spoken," Fiber Broadband Association, https://5217051.fs1.hubspotusercontent-na1.net/hubfs/5217051/Events/IQGeo%20Meetup%202022%20-%20Denver/Meetup%20Day%201%20presentations/2_FBA%20Keynote_The_market_has_spoken_IQGeo_Meetup_2022.pdf?hsCtaTracking=72374350-4b3e-455a-b8ed-031e09618cd7%7Ced1704fb-9b86-4c4b-a0a6-7f7d6b47b5de.

[12] https://broadbandbreakfast.com/acp-fallout-wireline-retains-most-wireless-and-satellite-face-major-losses/.

[13] https://www.emfanalysis.com/property-values-declining-cell-towers/?iframe=1&iframe=1&iframe=1.

[14] https://www.fcc.gov/ecfs/search/search-filings/filing/10411184024497.

light of the FCC's failure to issue an interpretive rule that the Communications Act was never intended to shield the wireless industry from liability for injuries to persons or property. COC makes the argument that the government is not substantially involved. But the point is that industry is using licensed spectrum from the FCC, the ongoing licensure of which is a major federal action, without which there would be no deployment. This will expose the public to wireless radiation which the FCC is supposed to regulate and for which the FCC is accountable to the public for safety.

We disagree with COC's desire to enhance preemption under Sections 253 and 332(c)(7), which is promoting a wireless agenda.

Section 253. Wired and Wireless Technologies are Not Equivalent Technologies and the Costs of Wireless Deployment Outweigh the Benefits. With respect to Section 253(a) of the Telecommunications Act, how can there be an "effective prohibition" if the technologies are not equivalent? Deeming wired and wireless to be "technology neutral" does not rectify this infirmity. Wireless is not a substitute for wired broadband.

1. Wireless infrastructure's lifespan is only five years, making it a poor use of taxpayer subsidies whereas fiber lasts 25-50 years.[15] As between wireless and fiber, fiber has been found to be "the most fiscally prudent expenditure of public funds in most circumstances because of its longevity and technical advantages."[16]
2. Billions of dollars in subsidies to wireless have not provided the promised ubiquitous service, according to former CTIA CEO and former FCC Chair, Tom Wheeler.[17]
3. Wireless suffers from line-of-sight obstructions, slower speed, inclement weather, lack of scalability, lack of cybersecurity, thereby making it unreliable in emergencies.

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[15] Tom Wheeler, former FCC chair and former CEO of CTIA, testified in 2021 that fiber is future proof with **wireless only as a last resort,** https://democrats-energycommerce.house.gov/sites/evo-subsites/democrats-energycommerce.house.gov/files/documents/Witness%20Testimony_Wheeler_FC_2021.03.22.pdf
Fixed Wireless Technologies and Their Suitability for Broadband Delivery, June 2022 https://www.benton.org/publications/FixedWireless.

[16] https://www.benton.org/publications/FixedWireless.

[17] In testimony to the House Energy and Commerce Committee, March 2021, former FCC Chair and former CTIA CEO Tom Wheeler spoke disappointingly that despite approximately $40 billion of government subsidies "over the last decade," those subsidies "have failed to deliver the goal of universal access to high-speed broadband … because it failed to insist on futureproof technology, … and focused more on the companies being subsidized than the technology being used or the people who were supposed to be served."

4. "[F]ixed-wireless networks have inherent capacity limitations that sharply limit the number of users on a network using a given amount of spectrum."[18]
5. Capital costs for fiber may be higher, but after 30 years, they are comparable to wireless.[19]
6. Wired infrastructure is inherently cheaper over the life of the infrastructure.[20] Fixed wireless costs are higher than fiber because of the ongoing need to regularly replace wireless equipment, with 40% to 80% of its capital investment needing to be replaced every five years. In contrast, only 1% to 10% of capital investment in a fiber network needs to be replaced every 10 years (fiber's life span is 50-70 years). Fixed wireless network providers must re-invest every five years to maintain the network. That is not sustainable in the long-run.

(3) **Strengthening and Enforcing NEPA Protections**

We agree with the Colorado Public Utilities Commission (COPUC) that any cost-benefit analysis cannot be reduced to simply corporate profit and loss, without taking into account the negative externalities created by the FCC's decisions and the actions of wireless providers.[21] The FCC's mandate under the Communications Act is to "protect life and property" which is the benefit side of the equation, while anything that would detract from that would be a cost and a negative to that equation. The regulations set forth in Appendix A hereto contribute to large societal costs that run contrary to the FCC's statutory mandate. We therefore recommend the FCC take into account negative externalities, such as adverse biological effects (both cancer and non-cancer) to the public and the environment in which we live (our trees, parks, plants, soil and microbiome), decrease in property values as people don't want to live near cell towers, the risk of cell tower fires that have already caused or contributed to massive devastation.

> "COPUC suggests a 'first do no harm' approach to consumer protection, public safety regulations, and accessibility, and to consider the broader benefits that such regulations may provide beyond a strict weighing of tangible costs and benefits. Such an approach would go a long way towards differentiating between rules the costs of which truly outweigh the benefits versus rules which may be costly but are necessary for the general welfare of the American public."
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> "COPUC notes that the public benefit of effective consumer protection, enhancement of public safety, and improved accessibility for all Americans

[18] https://www.benton.org/blog/how-fixed-wireless-technologies-compare-fiber.
[19] https://www.benton.org/publications/FixedWireless.
[20] https://www.benton.org/blog/how-fixed-wireless-technologies-compare-fiber.
[21] https://www.fcc.gov/ecfs/document/104090450425149/1.

goes beyond the dollar amounts that may be identified in an accounting of the tangible costs and benefits."[22]

The costs to human health from the irresponsible deployment of wireless telecom infrastructure outweighs the benefits, as previously discussed in our initial submission.[23]

We agree with Alliance for Natural Health: FCC: Prioritize Public Health Over Telecom Profits,[24] and their 1,261 consumer advocates who signed their petition. Their petition underscores the need to have robust NEPA enforcement especially with studies showing that radio frequency (RF) radiation is biologically active and because 5G and millimeter wave technologies have not been evaluated for public safety. They state the need for stronger safety standards to better protect Americans, especially children who are more vulnerable to RF radiation. We support their recommendations to the FCC to:

- "Reevaluate RF exposure standards to incorporate the latest scientific research on non-thermal biological effects.
- Require independent safety testing of wireless devices and infrastructure, rather than relying on industry-funded studies.
- Restore local control over 5G [wireless] deployment, allowing communities to regulate wireless infrastructure based on health and environmental concerns.
- Implement a moratorium on 5G [wireless] expansion until thorough, independent research confirms its safety [and safe exposure limits]."[25]

We disagree with the Taxpayers Protection Association that compliance with NEPA or the NHPA is "slowing down telecom infrastructure growth." There is no technological advancement if it is not safe for the public. The Federal Court of Appeals for the D.C. Circuit affirmed in 2019 that any major federal action (MFA) must comply with NEPA and NHPA, in particular with respect to the deployment of 5G wireless facilities.[26] As the FCC states: "Under the Commission's environmental rules, applicants and licensees are required to assess whether certain proposed facilities may significantly affect the environment. The National Environmental Policy Act (NEPA) requires environmental review of federal actions that may have a significant environmental effect. The National Historic Preservation Act

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[22] Ibid.
[23] See our comments submitted in the initial period, p. 11 at https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-133%22)+AND+filers.name:(%22wired%20broadband%22))
[24] https://www.fcc.gov/ecfs/search/search-filings/filing/104101966621156.
[25] Ibid.
[26] *Keetoowah Tribe of Cherokee Indians v. FCC* (D.C. Cir 2019).

(NHPA) is a component of NEPA [and therefore a similar] review if a federal action may affect historic structures or cultural sites."[27] The FCC's mandate is to serve the public interest and to "protect life and property," not to serve industry. (47 CFR § 1.1305-1.1320). The FCC should not follow misdirected priorities. The FCC should shore up its NEPA and NHPA application and enforcement.

We disagree with CTIA.[28] **With reference to 47 CFR Sections 1.1301-1.1320**, NEPA and NHPA should be rigorously enforced. The federal Court of Appeals for the D.C. Circuit made it clear in Keetoowah v. FCC in 2019[29] striking down a categorical exclusion for 5G deployment. Most importantly, the FCC should not be licensing any more spectrum until it complies with the 2021 court order, again from the federal Court of Appeals for the D.C. Circuit, this time in *Environmental Health Trust, et al, v. FCC,*[30] which remanded the case back to the FCC for failure to take a "reasoned approach" under the Administrative Procedures Act when it failed to review 11,000 pages of scientific, peer-reviewed, studies and 200 accounts of personal injury from wireless radiation. It has failed to do so. What should be streamlined is the FCC complying with the court order. Therefore, any acceleration of spectrum licensing would expose the public to more wireless radiation for which the FCC, charged by statute with public safety, has not yet responded to the court.

To be clear, **Sec 1.1305 of NEPA** states that "Any Commission action deemed to have a significant effect upon the quality of the human environment requires the preparation of a Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) (collectively referred to as EISs) (see §§ 1.1314, 1.1315 and 1.1317)." In a cost-benefit analysis, there is nothing in NEPA that gives preference to streamlining wireless facilities at the cost of public exposure (i.e., the public interest).

(4) Protecting the public interest

a. In reference to **47 CFR Sec 22.925**, we also disagree with the CTIA's recommendation for deletion. This rule prohibiting airborne use of cell phones is very relevant in preventing harmful interference from other aircraft airborne devices and we should not have to depend on industry to be the sole arbiter of compliance by self-policing where millions of passengers and aircraft personnel may be put at risk. Promoting the use of cellular communications on airplanes

[27] https://www.fcc.gov/enforcement/areas/tower-siting-construction.
[28] https://www.fcc.gov/ecfs/search/search-filings/filing/10411175703423.
[29] *Keetoowah Tribe of Cherokee Indians v. FCC* (D.C. Cir 2019).
[30] *Environmental Health Trust, et al v.* FCC, 9 F.4th 893 (D.C. Cir. 2021)

will adversely impact, and potentially make your travel and accessible to passengers who are disabled by electromagnetic radiation syndrome (EMR-S).

We disagree with the Taxpayers Protection Alliance that wants to make permanent a waiver of meeting requirements when retiring legacy voice systems. The FCC's purpose in the public interest is to make sure that there is a replacement that meets the set criteria to ensure that the public has an alternative. We recommend that there be no waiver and that the retirement of copper lines should cease in the name of the public interest, so that in the event of a cellular failure, people can still make a 911 call. This needed redundancy was underscored when on the west coast last year, millions of people had no way to make a 911 call when there was a cellular outage. Therefore, complete reliance on a cellular based 911 system does not guarantee against outages. However, copper lines are not subject to cellular outages.

IP-based NG911. We agree with the National Associational Association of State 911 Administrators (NASNA) that prior to deploying any IP-based NG911 system (Next Generation), there must be "rules that foster reliability, resiliency, security, interoperability, and accountability" particularly in matters of public safety.[31] However, we would add that in addition to any IP-based NG911 legacy copper wire for landlines should be maintained for redundancy. There are problems with IP-based 911 system which NASNA itemizes: outage reporting, system reliability, wireless location accuracy and system security. In February 2024, it was reported that millions of people on the west coast had no way to call 911 when there was a cellular system outage, with one advisory saying to use a landline to call 911. Landlines are copper-wire based. Copper wires are not affected by cellular outages. Therefore, legacy copper wires should be maintained and enhanced for redundancy.

Orbital Debris Requirements. We disagree with the U.S. Chamber of Commerce.[32] Orbital Debris Requirements should remain. U.S. space leadership is not enabled but is disabled by space debris from expired satellites. Moreover, with an expected acceleration of satellite launches, there will be an exponential increase in space debris since satellites typically have a useful life of 5 years before they are required to return to earth. With 25,000 collision avoidance maneuvers already recorded for Starlink Dec 2022 – May 2023,[33] eliminating orbital debris requirements would make this situation unsustainable.

Eliminate Off-Premise Wi-Fi and 5G Fund. We agree with the NCTA Internet and TV Association to eliminate: (a) off-premise Wi-Fi hotspots as an eligible service (which NCTA

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[31] https://www.fcc.gov/ecfs/document/10411289073974/1.
[32] https://www.fcc.gov/ecfs/search/search-filings/filing/10411184024497.
[33] https://www.space.com/starlink-satellite-conjunction-increase-threatens-space-sustainability.

references at 54.502(e), 54.500, 54.504)and (b) 5G fund support (which NCTA references at 54.307(e)(5)-(7), 54.322, 54.1011, 54.1012, 54.1014, 54.1015, 54.1018, 54.1019, 54.1022), as they are not supported by statute. [34]

(5) **Accounting rules.**

In response to comments by the NTCA Rural Broadband Association on the FCC's accounting rules,[35] we recommend deletion of Part 32, most of Part 36 and Part 64, subparts I and J. The FCC has created its own accounting rules under their Uniform System of Accounts (USOA) and should be eliminated for Generally Accepted Accounting Principles (GAAP). GAAP are the rules that govern financial accounting and reporting to ensure consistency and accuracy for marketplace stakeholders to compare and analyze financial data.

(6) Potential Constitutional Violations of "Streamlining" Permitting Process

This is another way of saying disregarding local input, participation and opposition.

- **a.** Potentially violates 5th Amendment right of due process by viewing public participation as a regulatory barrier that may include removal of any public notice, hearing, or consent.
- **b.** Potentially violates Commerce Clause (Art. 1, Sec. 8, Cl. 3) (a) by interfering with, and creating shot clock and deemed approved deadlines that may conflict with, local governments' codes over health, life and safety and open government laws that require adequate notice, time and deliberation for decisions to be rendered, and (b) by not providing the public the choice of abstaining, but forcing the public to partake in the commerce activity, and suffer the consequences, whether or not they subscribe to that activity, e.g., having a wireless facility in one's front yard even if not subscribing to the wireless service, yet forcibly exposed to an ugly, radiating facility, that is energy consumptive, environmentally damaging and property devaluing.
- **c.** Potentially violates the 5th Amendment right to just compensation by stripping private rights of ownership without just compensation by authorizing radiation to be emitted from a wireless facility that invades a property owner's property-based right to exclude.

[34] https://www.fcc.gov/ecfs/search/search-filings/filing/104110173015781.
[35] https://www.fcc.gov/ecfs/search/search-filings/filing/1041182708297.

On behalf of Americans Injured and Disabled
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Respectfully Submitted,

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APPENDIX A

Summary of Deletion Recommendations

In 47 C.F.R. Section 1.4000, also known as the Over-the-Air-Transmitting-Devices (OTARD), delete references to "fixed wireless signals."[36]

With respect to the 1996 rule promulgating RF limits,[37] the FCC should issue an interpretive rule clarifying that these limits (a) only provide a regulatory safe harbor with respect to 47 U.S.C. §332(c)(7)(B)(iv) for local zoning authority over personal wireless service facilities[38] and (b) do not provide a safe harbor for, and are not preemptive of, state-based claims regarding, product liability, personal injuries or property rights. In effect, FCC would be "deleting" a judicial expansion of these limits that was never intended by FCC.

Rules for Deletion:

1. Small Cell Order - Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv., FCC 18-133, 33 FCC Rcd. 9088 (2018). Withdraw rules amendments contained in Appendix A therein and overturn interpretive rules embodied in the Declaratory Ruling portion (¶¶30-102, 33 FCC Rcd at 9100-9141).
2. Moratoria Order - Declaratory Ruling in Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv., FCC 18-111, 33 FCC Rcd. 7705 (2018). Overturn interpretive rules embodied in Declaratory Ruling portion (¶¶140-168, 33 FCC Rcd at 7775-7791).

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[36] The D.C. Circuit affirmed the OTARD rule changes promulgated by *Updating the Comm'n's Rule for Over-the-Air Reception Devices*, 36 FCC Rcd 537, 540 (2021) in *Children's Health Def. v. FCC*, 25 F.4th 1045, 1050 (D.C. Cir., 2022) but it did so after applying *Chevron* deference. *Id.* at 1050. Further, the Court held petitioners had not preserved the issue of the Commission's authority under §303. *Id.* at 1050. Along the way the Court expressed the obvious and straightforward conclusion that an FCC regulation could not set aside rights, duties and obligations imposed by federal statutes like the ADA, and FHA. *Id.* at 1052, n. 5. Finally, the Court held petitioners had mounted only a facial challenge to the rule and indicated that a future as-applied challenge could have a different outcome. *Id.* at 1052, 1053, n.6.

[37] https://www.fcc.gov/document/guidelines-evaluating-environmental-effects-radiofrequency

[38] *See* 47 C.F.R. §1.1307(e). The Commission should explain that "State or local government authority" for purpose of the exposure rules is limited to *local zoning* and not other state or local laws that protect health or welfare.

3. One-Touch Make Ready Order – Third Report and Order in Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv., FCC 18-111, 33 FCC Rcd. 7705 (2018), including (¶¶5-136, 33 FCC Rcd 7707-7774) and (¶¶137-139, 33 FCC Rcd at 7774-7775)
4. Middle Class Tax Relief and Jobs Act (2012) (47 USC §1455), Section 6409 initial rules 2014 [39] which expands perimeter around a tower to 6 feet in diameter
5. Middle Class Tax Relief and Jobs Act (2012) (47 USC §1455), Section 6409 in 2020[40] which expands perimeter around a tower to 30 feet in diameter
6. NEPA 1986 satellite categorical exclusion[41]

[39] 29 FCC Rcd 12865 (16), https://www.fcc.gov/document/wireless-infrastructure-report-and-order.
[40] 35 FCC Rcd 13188 (16), https://www.fcc.gov/document/fcc-streamlines-local-approval-wireless-structure-modifications-0.
[41] 47 CFR 1.1506(a) and (b), https://www.ecfr.gov/current/title-47/chapter-I/subchapter-A/part-1/subpart-I; also see, Federal Register at page 14999 https://www.govinfo.gov/content/pkg/FR-1986-04- 22/pdf/FR-1986-04-22.pdf.

APPENDIX B

The parties listed here collectively constitute the "Filing Parties," have granted permission to submit these Comments on their behalf, and join together to submit these Comments:

The National Call for Safe Technology, Odette Wilkens, Chair & General Counsel; Public Employees for Environmental Responsibility, Tim Whitehouse, JD, Executive Director, Washington, D.C.; Charles Frohman, M.Ed, HIA, lobbyist, National Health Federation; 5G Free Rhode Island, Sheila Resseger, M.A., Co-Founder, Cranston, RI; Susan Molloy, M.A., Snowflake, AZ; Coloradoans for Safe Technology, Andrea Mercier (Mother of a severely disabled child who is adversely impacted various forms of non-ionizing radiation), Colorado Springs, CO; Coloradans for Safe Technology, Nancy VanDover, DVM, OMD, Dipl Acup, disabled by EMR; Deborah Shisler, with EMR-S, CO; La Plata for Safe Technology, Ingrid Iverson, with EMR-S, CO; Virginians for Safe Technology, Jenny DeMarco, Communications Director, and Mary Bauer, retired RF engineer, Fredericksburg, VA; NY4Whales & NY4Wildlife Taffee Wiliams, President, Tuckahoe, NY; Safe Tech International, Sara Aminoff, Union City, CA; Safe Tech International, Kate Kheel, Taneytown, MD; Safe Tech International, Patricia Burke, Millis, MA; Safe Tech Westchester, Ruth F. Moss, Westchester, NY; The Soft Lights Foundation, Mark Baker, President, Beaverton, OR; Amy Harlib, Concerned Citizen, New York, NY; Floris R. Freshman, Scottsdale, AZ, with EMR-S; Virginia Farver, Fort Collins, CO; Gabriela Munoz, disabled with EMR-S, Carmel, NY; EMF Safety Network, Sidnee Cox, Co-director, Windsor, CA; Rosemarie Russell, The National Call for Safe Technology, Hurricane, UT; Erin McDowell, RN, Rocky River, OH, SWORT (Southwestern Ohio for Responsible Technology), with EMR-S; Craig McDowell, veteran, Rocky River, OH; Loraine Uebele, FACHE, Kansas City, MO; World Healing Education Now Foundation (WHEN), Deborah Cooney, President, San Diego, CA; David Zach, Rumson, NJ; Massachusetts for Safe Technology, Cecelia Doucette, MTPW, Director; Women's Medicine Bowl, LLC, Dr. Beverly Jensen, Seattle, WA, with EMR-S; Sean Polacik, OH; Margaret Holt Baird, Esq., San Diego, CA, with EMR-S; Sustainable Upton, Laurie Wodin, Upton, MA, EMR-S; Amy Pollman-Hoehner, Toledo, OH; Minnesota for Safe Technology, Leo Cashman, St. Paul, MN; Connecticut for Responsible Technology, Paska Nayden, Easton, CT, with EMR-S; SW Pennsylvania for Safe Techology, Susan Jennings, Mount Pleasant, PA (son has EMR-S); The Change Advocacy, Shari Champagne, Houma, LA, with extreme EMR-S; Carol Taccetta; and Citizen League Encouraging Awareness of Radiation (CLEAR), Whidbey Island, WA; Warren Woodward, Sedona, AZ.

Abbreviation:

EMR means electromagnetic radiation.

EMR-S means Electromagnetic Radiation Syndrome