

Before the  
Federal Communications Commission  
Washington DC 20554

In the Matter of: )  
“Build America: Eliminating Barriers to ) WT Docket No. 25-276  
Wireless Deployment”<sup>1</sup> )  
 )  
 )

**REPLY COMMENTS**

**WIRED BROADBAND, INC.  
ON BEHALF OF AMERICANS INJURED AND DISABLED  
FROM ELECTROMAGNETIC RADIATION  
(ELECTROMAGNETIC RADIATION SYNDROME – EMR-SYNDROME)**

**Filed January 15, 2026**

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**FILING PARTIES**

**The parties listed in Attachment 2 (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.**

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<sup>1</sup> <https://www.fcc.gov/document/fcc-aims-accelerate-wireless-infrastructure-buildout-0>

Unless otherwise specified, paragraph references (¶) in this filing refer to paragraph numbers in this NPRM, FCC 25-67, published September 30, 2025.

## I. Executive Summary

1. We file these comments in addition to our initial round of comments in opposition to this NPRM.<sup>2</sup> The Commission's proposed actions are *ultra vires*; beyond its statutory authority to preempt local control otherwise reserved to the states in Section 332 of the Communications Act and Section 6409(a) of the Spectrum Act. The Commission cannot act beyond its Congressionally delegated authority.
2. The record in this docket demonstrates that, if the actions contemplated under the NPRM are implemented, substantial harms will occur to humans, plants, animals, and microbes. The Commission has failed to show that it has met its obligations under NEPA, or under Section 319 of the Communications Act, requiring it to weigh the public interest in its decision to ignore environmental effects.<sup>3</sup> As we underscore below, adverse effects of radiofrequency are real, not matters of mere "concern."

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<sup>2</sup> Wired Broadband, et al., comments filed December 31, 2025  
<https://www.fcc.gov/ecfs/search/search-filings/filing/12312447218213>

<sup>3</sup> *United Keetoowah Band of Cherokee Indians, et al. v. FCC* (2019, DC Circuit, No. 18-1129)  
<https://media.cadc.uscourts.gov/opinions/docs/2019/08/18-1129-1801375.pdf>

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### **III. About the Filing Parties**

4. Wired Broadband, Inc., on behalf of Americans injured or disabled by electromagnetic radiation, those who do not want to be injured or disabled by electromagnetic radiation, and the Filing Parties set forth in Attachment 2, respectfully submit these comments. The Filing Parties and coalition partner groups have a reach of over two million Americans across the country. We advocate for the safe deployment of communications infrastructure.

### **IV. The Commission’s Notice of Proposed Rulemaking is *Ultra Vires***

5. We agree with the comments made that the FCC’s NPRM is *ultra vires*.<sup>4</sup> The FCC simply lacks authority under the Communications Act to strip away state and local authority over the siting and maintenance of cell towers within local jurisdiction. That authority is preserved under Section 332(c)(7)(B), which clearly limits FCC authority. Nor can the Spectrum Act, codified at 47 USC 1455(a), justify several of the proposed actions.

### **V. FCC’s own maps undercut its argument of need for this NPRM**

6. Zoe Berg’s Comments provide compelling information on mobile coverage in the U.S.<sup>5</sup>  
“Self-reported data submitted by wireless carriers to the FCC demonstrate ample fixed

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<sup>4</sup> Robert Berg’s Reply Comments, January 11, 2026  
<https://www.fcc.gov/ecfs/document/1011257517298/1>.

Robert Berg’s Comments, December 31, 2025

<https://www.fcc.gov/ecfs/document/1231293407974/1>

Zoe Berg Comments, December 31, 2025

<https://www.fcc.gov/ecfs/search/search-filings/filing/1010142220891>

<sup>5</sup> Id

broadband and mobile broadband access nationwide.” The information is reported to the FCC’s National Broadband Map by the wireless carriers, under penalty of perjury. The map shows that the vast majority of the U.S. is covered. The reasons she describes for areas that lack coverage is because of “topographical challenges, or economic decisions made by wireless companies to prioritize infrastructure deployments in lucrative markets, or both.” The map is publicly available at <https://broadbandmap.fcc.gov/>.<sup>6</sup> Moreover, under the Broadband Data Act, all Internet Service Providers (“ISPs”) (including wireless carriers) provide coverage data to the FCC. According to this Act,<sup>7</sup> it is:

unlawful for any entity or individual to willfully and knowingly, or recklessly, submit information or data under this subchapter that is **materially inaccurate or incomplete** with respect to the availability of broadband internet access service or the quality of service with respect to broadband internet access service. [Emphasis added]

There appears to be discordance between what the Commission is parroting from industry and what is reported to the FCC’s National Broadband Map.

## **VI. Actions under the NPRM are Major Federal Actions requiring an environmental impact statement under NEPA**

7. We concur with and support the comments of Environmental Health Sciences (EHS) generally, including without limitation its comments that “The FCC Is Improperly Avoiding Environmental Review in Violation of NEPA.”<sup>8</sup> The actions contemplated in the NPRM will

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<sup>6</sup> Last Accessed December 30, 2025

<sup>7</sup> 47 USC 643

<sup>8</sup> Comments filed December 31, 2025, at

5. *The FCC has failed to protect children and other vulnerable populations*

6. *The FCC has failed to protect wildlife and its habitat*

7. *The FCC is improperly avoiding environmental review in violation of NEPA*

8. *The FCC has failed to account for cumulative exposure and changed circumstances*

foreseeably and predictably increase the density of radiofrequency radiation both in the ambient environment and the in the exposure levels experienced by humans, plants, animals, and microbes, both individually and cumulatively. Scientific studies included in this Docket, by EHS and others, demonstrate adverse effects on the natural environment and the human environment.<sup>9</sup>

8. The actions contemplated in the NPRM constitute, both individually and in the aggregate, major federal actions (MFAs). These MFAs meet the requirements under applicable case law for the FCC to prepare an environmental impact statement.<sup>10</sup> The Commission may try to argue that the impacts under this NPRM are indirect, and therefore the Commission does not need to consider them under NEPA. However applicable case law says the Commission must consider indirect effects resulting from this NPRM:

- a. radiofrequency (RF) emissions from wireless facilities built thanks to the rules proposed under the NPRM meet the “but for” test of causation and have a “reasonably close causal relationship akin to proximate cause under tort law,” as set out in *Public Citizen* and *Seven County*.<sup>11</sup>
- b. RF emissions from these facilities also meet the second test under *Public Citizen*: does the agency have statutory authority? Yes; the FCC has the authority to

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<https://www.fcc.gov/ecfs/search/search-filings/filing/10101192389991>

<sup>9</sup> 42 USC 4332(C)

<https://uscode.house.gov/view.xhtml?req=granuleid:USC-1999-title42-section4332&num=0&edition=1999>

<sup>10</sup> The requirement to prepare an EIS is in addition to the cost benefit analysis described by Children's Health Defense in comments filed December 31, 2025, pages 11-12

<https://www.fcc.gov/ecfs/search/search-filings/filing/1231084288310>

<sup>11</sup> *Department of Transportation, et al. v. Public Citizen, et al.* (US, 2004, No. 03-358)

<https://tile.loc.gov/storage-services/service/l1/usrep/usrep541/usrep541752/usrep541752.pdf>

*Seven County Infrastructure Coalition, et al. v. Eagle County, et al.* (US 2024, No. 23-975), p. 3

[https://www.supremecourt.gov/opinions/24pdf/23-975\\_m648.pdf](https://www.supremecourt.gov/opinions/24pdf/23-975_m648.pdf)

regulate, address, and mitigate radiofrequency emissions. The *Public Citizen* court noted that the Federal Motor Carrier Services Administration lacked the authority to prevent cross-border trucking, and therefore could not consider regulatory action over indirect effects outside of its regulatory jurisdiction, while also acknowledging the converse: agencies that can "practicably control or maintain control over the emissions" must consider such indirect effects.<sup>12</sup>

- c. The Commission therefore has the obligation to address RF effects – and treat the environmental effects resulting from this NPRM as a major federal action under NEPA – even if they’re indirect. The Supreme Court recently affirmed this in *Seven County*, writing: “indirect environmental effects of the project itself may fall within NEPA’s scope.”<sup>13</sup>
- d. In stark contrast, the instant NPRM would *expressly preempt* the approval processes of state, local, and tribal agencies in general, and as the Commission readily acknowledges, to preempt with respect to regulation based on radio frequency emissions.<sup>14</sup> As the concurring opinion in *Seven County* wrote:<sup>15</sup>

It follows from this rule that the proper scope of an agency’s NEPA review depends in part on the nature of the agency’s statutory authority. The greater an agency’s authority to consider and prevent environmental impacts in its decision-making process, the greater its duty under NEPA to consider those impacts, and vice versa.”

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<sup>12</sup> *Public Citizen*, fn 11 supra, at 755

<sup>13</sup> *Seven County*, at page 3

<sup>14</sup> "The Commission has **exclusive** authority to set RF emissions limits." [Emphasis added] NPRM ¶62

<sup>15</sup> Sotomayor concurring opinion, fn 3

The Commission claims authority on RF emissions and has statutory authority “to consider and prevent environmental impacts,” hence its “duty under NEPA” to prepare an EIS that considers those impacts.

- e. The Commission cannot on the one hand claim exclusive authority over RF emissions and at the same time leave the assessment of environmental impact to some other, fictitious, undescribed, nonexistent proceeding.<sup>16</sup> The *Seven County* majority decision echoed this principle, when it found the US Service Transportation Board did not need to consider upstream and downstream indirect effects because, unlike the current NPRM, the indirect effects in that situation were to be covered in another analysis:

"Future projects would be subject to the approval processes of other federal state, local, and tribal agencies," [internal punctuation omitted]

- f. Even if, for the sake of argument, the Commission could make the case that review under NEPA will be conducted in some other proceeding at the time of construction for each individual wireless facility,<sup>17</sup> this does not excuse the

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<sup>16</sup> In fact, FCC has another open rulemaking which would further erode its already-paltry activities under NEPA, *Modernizing the Commission's National Environmental Policy Rules*, FCC 25-47.

A recent article by an environmental attorney formerly at the FCC describes the synergy between the foregoing NEPA rulemaking and the instant NPRM, which together appear intended to avoid all environmental considerations whatsoever. *Whatever Industry Wants: How the FCC Is Steamrolling Locals in the Cell Tower Rollout*, Common Dreams, January 2, 2026

<https://www.commondreams.org/opinion/fcc-cell-towers-nepa>

<sup>17</sup> For example, FCC may attempt to claim that each wireless facility is subject individually under NEPA and cumulatively only to the extent they result in human exposures in a particular location in excess of current limits (e.g., two cell towers across the street from each other could create higher levels on that street), and according to its own rules, therefore be categorically excluded. 47 CFR 1.1306. However this is an incomplete consideration of cumulative effects. Cumulative effects extend beyond just one street corner (such as the cumulative environmental effects of thousands of antennas pursuant to multiple overlapping metropolitan licensees



Commission in this proceeding from considering the cumulative impacts of the facilities that it expects to “unleash” with this rulemaking, together with the accumulated total of facilities it has already licensed (and allowed to operate on unlicensed frequencies) prior to this NPRM.<sup>18</sup> If the Commission's plans are fully enacted, it would create a situation in which no analysis ever occurs for the cumulative deployment of wireless facilities, as it would have categorically excluded the allocation of spectrum, the awarding of metropolitan licenses, each individual tower and antenna upon construction, and in the instant proceeding the preemption of local authority. The Commission cannot create a situation of “pass the monkey” into oblivion. It must take responsibility and conduct true analysis of the cumulative environmental effects of its actions.

- g. Finally, unlike the railway construction at issue in *Seven County*, where the downstream effects were “separate in time or place” from the railway,<sup>19</sup> the geographic area covered by this NPRM is 100% coterminous with the geography where the impacts will occur: namely, all lands in the United States governed by state and local governments.
9. Even under the *Seven County* standard of deference, the FCC has completely abdicated responsibility under NEPA, and has not engaged in the “necessary process for an agency’s environmental review”<sup>20</sup> to even prepare a report. [Internal punctuation omitted] Nor do the Commission’s scientific conclusions meet the low *Seven County* standard of falling “within a

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coexisting with unlicensed and other users of spectrum in the same geographic area) and extend beyond the 30 minutes of time averaging currently considered in FCC rules.

<sup>18</sup> Statement of Commissioner Olivia Trusty, NPRM page 51.

<sup>19</sup> *Seven County* syllabus, page 2

<sup>20</sup> *Seven County* citing *Public Citizen*, at page 6

broad zone of reasonableness,” as the Commission has engaged in no analysis whatsoever.

As the *Seven County* opinion of the court implies, an agency’s final decision cannot possibly be reasonable under the Administrative Procedures Act if it completely failed to prepare an environmental impact statement (EIS) for an MFA.<sup>21</sup>

10. When preparing its EIS, the Commission must consider the environmental effects of the aggregate facilities that would likely exist, or that the Commission hopes will exist, as a result of this NPRM. It must not use today’s level of deployment as the baseline for wireless infrastructure as this baseline was never assessed for environmental impacts.<sup>22</sup> In 1996, the Commission promulgated human exposure standards, and then without evidence declared these human standards protected all life – including plants, animals, and microbes.<sup>23</sup> The Commission remains under a court remand to address evidence of environmental impacts at levels below the current maximum permissible exposure levels.<sup>24</sup> As the *Marin Audubon* court wrote:<sup>25</sup>

The agency’s choice of the baseline for comparison matters a great deal. If the baseline is artificially high, the agency might erroneously conclude that even highly disruptive actions will have minimal incremental environmental effects. In that event, the agency might avoid conducting a more comprehensive environmental analysis required by NEPA...

**It was unreasonable for the Agencies to avoid fully treating the environmental effects of the Bay Area Parks Plan on the ground that those effects would minimally alter a status quo that itself has never been adequately assessed....**

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<sup>21</sup> *Seven County*, fn 11 supra, at page 9

<sup>22</sup> 47 CFR 1.1306(b)(3), and *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, released August 1, 1996, FCC 96-326  
[https://transition.fcc.gov/Bureaus/Engineering\\_Technology/Orders/1996/fcc96326.pdf](https://transition.fcc.gov/Bureaus/Engineering_Technology/Orders/1996/fcc96326.pdf)

<sup>23</sup> Id

<sup>24</sup> *Environmental Health Trust, et al. v. FCC* (DC Circuit, 2021, No. 20-1025)

<sup>25</sup> *Marin Audubon Society, et al. v. FAA* (DC Circuit, 2024, No. 23-1067)

<https://media.cadc.uscourts.gov/opinions/docs/2024/11/23-1067-2084381.pdf>

Under such an approach, the Agencies could grandfather in all pre-act [activities] without ever conducting a NEPA analysis. [Emphasis added]

## **VII. Wireless providers have not been good environmental stewards**

11. Commission oversight of environmental impacts is all the more important, as wireless providers have not been good environmental stewards. For example, Verizon paid a \$7.7 million settlement after prosecutors from several counties and cities in southern California filed a complaint for environmental violations in Los Angeles, San Bernardino, Ventura, Imperial, Riverside, and San Diego counties.

According to the San Bernardino County District Attorney's Office, Verizon repeatedly failed to properly document how it was managing hazardous materials at the cell towers and failed to allow inspections at the sites. Environmental violations were reported:

at hundreds of the company's wireless telecommunication cell towers in Southern California . . . Verizon repeatedly failed to properly document how it was managing hazardous materials at the cell towers and failed to allow inspections at the sites. Beginning in January 2019, violations occurred at numerous Verizon cell towers where hazardous materials and above-ground petroleum storage tanks are used to power emergency generators and backup systems . . . Verizon stores and uses materials such as lead acid batteries and petroleum products at these sites, which require detailed reporting and proper hazardous materials management under California law.

The complaint against Verizon alleges the company repeatedly failed to submit complete and accurate Hazardous Materials Business Plans to the California Environmental Reporting System; failed to maintain copies of these plans onsite as required; and failed to provide adequate employee training for responding to hazardous material releases.

"The requirements exist to ensure that first responders, environmental regulators, and public safety officials have accurate information about hazardous materials stored at commercial sites in the event of an emergency," the DA's office said.

Verizon also failed to allow inspections at multiple locations and failed to pay required permit fees that support local oversight of hazardous materials, according to the complaint.<sup>26</sup>

## **VIII. Wireless zoning is not a barrier to broadband deployment**

12. In contrast to CTIA’s assertions of needing further preemption to facilitate wireless

deployment, the former CEO of CTIA and former FCC Chair, Tom Wheeler, testified in Congress that fiber is futureproof and wireless should be used “as a last resort.”<sup>27</sup> He 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.

The impediments to broadband deployment in unserved or underserved areas have nothing to do with local wireless zoning, but rather market failures in providers’ investment patterns and failure of regulators to ensure responsible stewardship of broadband subsidies – namely failure to ensure such funds are allocated to futureproof fiber. This again underscores the flawed premise for this NPRM: the allegation that local zoning has slowed down deployment. Preemption of wireless zoning will do nothing to improve high-speed fiber deployment, which is what is actually needed to address the digital divide.

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<sup>26</sup> <https://www.msn.com/en-us/money/companies/hundreds-of-verizon-cell-towers-in-socal-were-in-violation-7-7-million-settlement-announced/ar-AA1TDS4e>

<sup>27</sup> [https://democrats-energycommerce.house.gov/sites/evo-subsites/democrats-energycommerce.house.gov/files/documents/Witness%20Testimony\\_Wheeler\\_FC\\_2021.03.22.pdf](https://democrats-energycommerce.house.gov/sites/evo-subsites/democrats-energycommerce.house.gov/files/documents/Witness%20Testimony_Wheeler_FC_2021.03.22.pdf).

## IX. Risks of privacy and security breaches are not addressed

13. We agree with the comments made by Julian Gresser of Broadband International Legal Action

Network that wireless, especially 5G, pose serious risk of privacy and security breaches, as well as to national security. Gresser points out that:

5G / small-cell architecture multiplies entry points. DHS and CISA both note that 5G's architecture—virtualized core, distributed edge computing, dense small-cell deployments, and massive IoT connectivity—increases the number of components that must be secured, and that compromise of hardware, software, or services can affect data confidentiality, integrity, and availability across sectors. 5G + IoT is a particularly dangerous combination. Experts warn that the 5G + IoT environment brings heightened risk of DDoS (Distributed Denial of Service), lateral movement, and exploitation of proximity services, and that the vast distribution of decentralized, small-cell networks makes it difficult to keep every node securely configured and patched.

14. Security vulnerabilities are inherent in 5G architecture and, while 5G is being deployed, these vulnerabilities have not been resolved. As to 5G's hackability, Tom Wheeler coined the term the "5G Cyber Paradox," when he explained that the increased efficiency of 5G architecture renders it more insecure. "5G networks are much more vulnerable to cyberattacks than their predecessors."<sup>28</sup> Whereas 4G network architecture is a centralized, hardware-based switching network with hardware choke points to quarantine any security breach events, 5G is a distributed, software-based network of digital routers with thousands of nodes and access points that a hacker can exploit; there is no choke point control.<sup>29</sup> If a

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<sup>28</sup> Why 5G Requires New Approaches to Cybersecurity, Tom Wheeler and David Simpson, Brookings Institute, Sept 3, 2019, <https://www.wita.org/nextgentrade/why-5g-requires-new-approaches-to-cybersecurity/>.

<sup>29</sup> *Why 5G Requires New Approaches to Cybersecurity*, Tom Wheeler and David Simpson, Brookings Institute, Sept 3, 2019, <https://www.wita.org/nextgentrade/why-5g-requires-new-approaches-to-cybersecurity/>; see also, *Why 5G Networks Are Disrupting The Cybersecurity Industry*, Oct 29, 2021,

hacker gains control of the 5G software managing the networks, the hacker can also control the 5G network.<sup>30</sup>

In fact, in 2018 a hacker gained access to a Nevada casino's network through its internet connected "smart" thermostat system located in a fish tank at the casino, and was able to extract information out through the thermostat and load it into the cloud.<sup>31</sup> This shows that the Internet of Things (IoT) poses a serious risk of security breaches.

15. NYC's Chief Technology Officer and Chief Information Security Officer spotlighted 5G's security vulnerabilities in a letter to the National Telecommunications and Information Administration (NTIA) in 2020:

Such complex systems [5G] present more opportunities for security and privacy breaches. By moving away from firmware-based technology of 4G telecommunication components to software-based 5G telecommunication components that will need to be updated, the opportunity for manipulation exists within the supply chain. Furthermore, movement away from centralized network systems to decentralized network systems increases the attack surface of a network. That increased attack surface is amplified by the anticipated introduction of the increasing number and variety of connected devices (IoT) and big data industries. (top of p.3)

The problem of IoT vulnerabilities will only become *exacerbated by the increased speeds of 5G* and other future wireless broadband technologies. (middle of p.3)

IoT protection is historically poor and *malware distribution is easily scalable*, which suggests that the creation of IoT botnets ("robot networks") for malicious purposes, including *large-scale distributed denial of service*

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<https://www.forbes.com/sites/forbestechcouncil/2021/10/29/why-5g-networks-are-disrupting-the-cybersecurity-industry/?sh=5186fc041fe9>.

<sup>30</sup> *Why 5G Requires New Approaches to Cybersecurity*, Tom Wheeler and David Simpson, Brookings Institute, Sept 3, 2019, <https://www.wita.org/nextgentrade/why-5g-requires-new-approaches-to-cybersecurity/>.

<sup>32</sup> Letter from Chief Information Security Officer, Geoff Brown, and Chief Technology Officer, John Paul Farmer, to National Telecommunications Information Administration of the U.S. Chamber of Commerce, June 2, 2020, <https://www.dropbox.com/scl/fi/0cxjktjxstmb825gqih25/NYC-Comments-5G-to-NTIA-6-25-20.pdf?rlkey=dgmc3m04dxd57qfz7z1g12ckh&dl=0>.

*(DdoS) attacks, is likely to increase* as well. This poses a *significant threat* to vital digital infrastructure and resident services at all levels of government, as well as private sector enterprise. (penultimate paragraph on p.3)<sup>32</sup>  
[emphasis added]

To further amplify the last point, Forbes reported that:

Botnet and denial of service (DdoS) type attacks can bring down whole portions of the network simply by overloading a single [5G] node.<sup>33</sup>

## **X. Biological impacts are not matters of mere “concern”**

16. While we largely support and applaud comments of Local Community Coalition, we take issue with its choice of wording on page 36:<sup>34</sup>

It is in everyone’s best interests to recognize that siting RF emitting equipment ever closer to the general public will heighten **RF anxiety**, and the Commission alone bears the regulatory authority and responsibility to address **public concerns** about siting in closer proximity to the public through updated standards. [Emphasis added]

The FCC’s responsibility goes way beyond addressing “RF anxiety” (as commenters use that term) and “concern” in the population. The NPRM itself dismisses health impacts of radiofrequency as “concerns.”<sup>35</sup> Local Community Coalition commenters here likely refer to anxiety about a tower occurring *prior* to construction. However, such anxiety is distinct from the medical condition of radiofrequency-induced anxiety or depression, which has been documented

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<sup>32</sup> Letter from Chief Information Security Officer, Geoff Brown, and Chief Technology Officer, John Paul Farmer, to National Telecommunications Information Administration of the U.S. Chamber of Commerce, June 2, 2020, <https://www.dropbox.com/scl/fi/0cxjktjxstmb825gqih25/NYC-Comments-5G-to-NTIA-6-25-20.pdf?rlkey=dgmc3m04dxd57qfz7z1g12ckh&dl=0>.

<sup>33</sup> Why 5G Networks Are Disrupting The Cybersecurity Industry, Oct 29, 2021, Forbes, <https://www.forbes.com/sites/forbestechcouncil/2021/10/29/why-5g-networks-are-disrupting-the-cybersecurity-industry/?sh=5186fc041fe9>.

<sup>34</sup> Local Community Coalition, comments filed December 31, 2025 <https://www.fcc.gov/ecfs/search/search-filings/filing/123152282324>

<sup>35</sup> NPRM ¶62

to result from radiofrequency exposure.<sup>36</sup> The FCC does have an obligation to consider medical conditions that it, or its decisions, causes or exacerbates in the population.

17. As Justice Sotomayor recently wrote in *Seven County*:<sup>37</sup>

In *Metropolitan Edison*, the Court considered whether the Nuclear Regulatory Commission had to analyze not only the risk that a proposed nuclear plant would cause an accident, but also the psychological concern nearby residents might experience when they learned about that risk. Although the psychological concern would be “caused by” the nuclear plant, the Court held that NEPA did not require the agency to consider it. That makes sense: **Preventing nuclear accidents is a core element of the [Nuclear Regulatory] Commission’s statutory task; preventing psychological distress is not.** See *id.*, at 776 (noting that “psychiatric expertise” is “not otherwise relevant to [the agency’s] congressionally assigned functions”). **Because the agency could reasonably disregard psychological distress in deciding whether to approve a power plant, it could disregard that risk in its environmental analysis as well.** [Emphasis added, internal references omitted]

Just as the Nuclear Regulatory Commission has an obligation to prevent nuclear accidents, so too does the FCC have an obligation to prevent, mitigate, and address harms from radiofrequency radiation, which are squarely within its regulatory scope. As we pointed out in our initial round of comments, health impacts of radiofrequency are no matters of mere “concern.”<sup>38</sup> As amply

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<sup>36</sup> For example, see the following peer-reviewed articles (not exhaustive) illustrating that radiofrequency exposure can induce anxiety in humans and rodents. The endocannabinoid system is involved in the anxiety-like behavior induced by dual-frequency 2.65/0.8 GHz electromagnetic radiation in mice, *Frontiers in Molecular Neuroscience*, 2024 <https://doi.org/10.3389/fnmol.2024.1366855>

The effect of chronic exposure to extremely low-frequency electromagnetic fields on sleep quality, stress, depression and anxiety, *Electromagnetic Biology and Medicine*, 2019 <https://doi.org/10.1080/15368378.2018.1545665>

Long-term exposure of 2450 MHz electromagnetic radiation induces stress and anxiety like behavior in rats, *Neurochemistry International*, 2019 <https://doi.org/10.1016/j.neuint.2019.04.001>

<sup>37</sup> *Seven County*, concurring opinion, page 8

<sup>38</sup> Fn 2 *supra*, at ¶28 and ¶35



evidenced in this docket, as well as in FCC Dockets 03-137, 13-84, and 19-226, radiofrequency health impacts are real and they are devastating.

## **XI. We disagree with CTIA and oppose this NPRM**

18. We disagree with CTIA’s comments in their entirety. Below are examples of points of disagreement (not exhaustive).

19. On Page 4 of its comments, CTIA says that wireless providers on average have spent an average of more than “\$30 billion annually over the last decade” upgrading their networks, which it claims have “benefited the US economy tremendously.”<sup>39</sup> First, these figures do not reflect the fact that a substantial portion of this capital investment is on network equipment — and there are no large US equipment vendors. Therefore, US wireless operators purchase equipment largely from foreign, not domestic, vendors, such as Nokia, Ericsson, and Samsung, meaning that a large proportion of this \$30 billion is being exported. Second, the purported macroeconomic benefits of these expenditures may not be a net benefit to the US economy after taking into account the sickness, illness, and disability resulting from irresponsible wireless deployments.

20. We disagree with CTIA on page 13, that the Ninth Circuit in *City of Portland* upheld the material inhibition standard under the *California Payphone* FCC Order as *the* standard for evaluating all effective prohibition claims under Sections 253 and 332. Rather, the Ninth Circuit upheld the small cell fee limits and its reasoning was based on *California Payphone*’s standard – making *Portland* a far more narrow ruling – in keeping with the principle of

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<sup>39</sup> CTIA comments filed December 31, 2025

<https://www.fcc.gov/ecfs/search/search-filings/filing/12312417000463>

judicial minimalism and deciding as narrowly as possible. While the Commission and industry continue to assert the fiction of *California Payphone*'s material inhibition standard being universally applicable, federal courts have consistently rejected this fiction, as Local Community Coalition rightly points out.<sup>40,41</sup> While the *City of Portland* court was silent on the general applicability of material inhibition, CTIA declares the silence as an affirmation, which it is not.<sup>42</sup> Silence is not affirmation.

21. We further note that if the Commission implements fee limits, such limits would apply only to telecommunications service and personal wireless service facilities<sup>43</sup> – not facilities for broadband data.<sup>44</sup>
22. We disagree with CTIA in its assertion on page 23, that setback requirements should not exceed the tower's height and that the fall zone does not exceed the tower's height. The height of the tower is not the only relevant horizontal distance for setbacks. Wireless facilities that fall to the ground can lead to debris – such as heavy antennas, equipment cabinets, and fragments of the tower itself, which can blow around in the wind (or in floods) – and strike windows or pedestrians, or cause damage to life and/or property. Even absent windy conditions or other inclement weather, fallen towers or equipment present fire hazards.<sup>45</sup> Local governments have a legitimate interest in keeping these wireless facilities

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<sup>40</sup> See Local Community Coalition comments fn 34 supra, at page 5

<sup>41</sup> Also see *ExteNet Sys. v. Vill. of Flower Hill*, No. 19-CV-5588-FB-VMS, 9-10 (E.D.N.Y. Jul. 29, 2022)

<sup>42</sup> CTIA comments, fn 39 supra at page 22, "The Court's discussion did not, however, question the Commission's conclusion."

<sup>43</sup> NPRM ¶¶45,46,47

<sup>44</sup> CTIA repeats the Commission's flawed premise, citing a need for this NPRM for "wireless broadband services." CTIA comments at page 1.

<sup>45</sup> For example, the 2018 Woolsey Fire in California caused \$6 billion in damage, which the California Public Utilities Commission found was caused by wireless facilities.

set back from residential dwellings to protect residents from such debris, and to allow for ingress and egress to/from homes and neighborhoods in the case of fallen and errant debris or fire.

23. We oppose CTIA's desire, on page 28, for an "optional process that providers can voluntarily elect that expedites dispute resolution." The word "optional" is a misnomer here, as it does not envision this process being optional for local governments. The NPRM wrongly looks to statutory authority for this process in both Sections 253 and 332; however, 332(c)(7)(B)(v) expressly preserves judicial review for siting disputes. An administrative law process under 332 would not only violate the plain text of the statute, but also the *Thunder Basin* factors, recently affirmed in *Axon*.<sup>46</sup> And 253(d) preemption is reserved only for review of statutes and regulations, not siting decisions.

## Conclusion

For the foregoing reasons, we oppose the proposals contemplated under this NPRM and urge the Commission to withdraw it.

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See Wildfire Risks From Cell Tower Proliferation, Environmental Health Trust, February 11, 2024, and fn 7 therein

<https://ehtrust.org/wp-content/uploads/wildfire-cell-tower-fact-sheet-EHT-2-11-24.pdf>

<sup>46</sup> FCC administrative process fails two of the three required *Thunder Basin* tests: it would foreclose meaningful judicial review and it would be outside the agency's expertise, as FCC does not have the expertise to act as a local zoning board or land use body. Simply rubberstamping all applications does not add up to "expertise." As Local Community Coalition comments point out, "The Commission is proposing to become a national zoning board contrary to law and policy." Local community Coalition, fn 34 supra, at page 4.

*Thunder Basin Coal Co. v. Reich* (US 1994)

<https://supreme.justia.com/cases/federal/us/510/200/case.pdf>

*Axon Enterprises v. FTC*, US 2023, No. 21-86

[https://www.supremecourt.gov/opinions/22pdf/21-86\\_15gm.pdf](https://www.supremecourt.gov/opinions/22pdf/21-86_15gm.pdf)

Respectfully submitted,

Odette J. Wilkens

President & General Counsel

Wired Broadband, Inc. (non-profit)

On behalf of Wired Broadband, Inc. and the Filing Parties

## XII. Attachment 1: Filing Parties

The parties listed below collectively constitute the “Filing Parties,” have granted permission to submit these Comments on their behalf, and join together to submit these Comments.

National Organizations – Filing Parties	
Wired Broadband, Inc., 501(c)(3), Odette J. Wilkens, President & General Counsel	
The National Call for Safe Technology, 501(c)(4), Odette J. Wilkens, Chair & General Counsel	
The Weston A. Price Foundation, 501(c)(3), Sally Morell Fallon, President, Washington, D.C.	
Alliance for Natural Health-USA, Robert Verkerk, PhD, Executive and Scientific Director, Alexandria, VA	
U.S. State	Filing Parties
AK - Alaska	Hal Stachman, Sitka, AK
AL - Alabama	Donald Campbell, Huntsville, AL
AR - Arkansas	PACTS International, Ken Stroud, Advisory Board Member/Technical Director, with Havana Syndrome, Little Rock, AR
AZ - Arizona	Arizonans for Safe Technology, AZ
	EMF Wellness Tucson, Lisa Smith, PhD, Tucson, AZ
	Safe Tech Tucson, Tucson, AZ
	Floris R. Freshman, published artist and composer, with EMR-Syndrome, Scottsdale, AZ
	Susan Molloy, M.A., Snowflake, AZ
	Melissa Hayes, M.S. with EMR-Syndrome, Oro Valley, AZ, Oak Haven Wellness, LLC
	Renée Neumann, Tucson / Green Valley, AZ
	Kathy Flanagan, with EMR-Syndrome, Prescott Valley, AZ
	Karen Carswell, Flagstaff, AZ
CA – California	Warren Woodward, Sedona, AZ
	EMF Safety Network, Sidnee Cox, Co-director, Windsor, CA
	Fiber First LA, Charlene Hopey, Topanga, CA
	Malibu for Safe Tech, Lonnie Gordon, Executive Director, Malibu, CA
	Napa Neighborhood for Safe Technology, Amy Martenson, Napa, CA
	Safe Tech International, Sara Aminoff, Union City, CA
	5G Free California, Julie Levine, with EMR-Syndrome, Topanga, CA,
	California Brain Tumor Association, Ellen Marks, Director, Indian Wells, CA
	Sustainability Management Consulting, Angela Casler, Chico, CA
	Eagle Forum of California, Orlean Koehle, CEO, Santa Rosa, CA
	Brenda Shafer, with EMR-Syndrome, CA
	Gene Wagenbreth, Topanga, CA
	Margaret Holt Baird, Esq., with EMR-Syndrome, San Diego, CA

	Raymond Michael LeVesque, RayGuardProtect.com, National Health Federation Board Member, Clear Lake Riviera, CA
CO - Colorado	Coloradans 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, CO
	La Plata for Safe Technology, Ingrid Iverson, with EMR-Syndrome, La Plata County, CO
	Longmont for Safe Technology, Doe Kelly, Co-Founder, with EMR-Syndrome, Longmont, CO
	Deborah Shisler, with EMR-Syndome, CO Virginia Farver, Fort Collins, CO
CT - Connecticut	Connecticut for Responsible Technology, Private Membership Association (PMA), Paska Nayden, Co-Founder & Administrator, with EMR-Syndrome, CT
FL - Florida	Florida Coalition for Safe Technology, St. Pete's Beach, FL Lauren Mones, St. Pete's Beach, FL KellyLee McFrederick, St. Pete's Beach, FL Kay Fitt, Palm Harbor, FL; Susan Lee, Miami, FL Shirley Denton Jackson, with EMR-Syndrome, unexpected early retirement from School District of Palm Beach County, FL - Research Project Manager and Safe Schools Coordinator - due to EMR-Syndrome, North Palm Beach, FL
IL - Illinois	Safer Cell Phone and Wi-Fi Project, Marne Glaser, Chicago, IL
LA - Louisiana	Southern EMF Radiation Solutions, Shari Champagne, with EMR-Syndrome, Houme, LA
MA – Massachusetts	Massachusetts for Safe Technology, Cecelia Doucette, Director, Ashland, MA
	Pittsfield Cell Tower Injured & Concerned Citizens (injured with EMR-Syndrome), Pittsfield, MA
	Safer Siting 01240, Lenox, MA
	Safe Tech International, Patricia Burke, journalist, with EMR-Syndrome, Millis, MA
	Sustainable Upton, Laurie Wodin, Co-Administrator, with EMR-Syndrome, Upton, MA
	Last Tree Laws (.com), Kirstin Beatty, with EMR-Syndrome, Director, Holyoke, MA
	The Leto Foundation, Westborough, MA
	Alison McDonough, with EMR-Syndrome, Canton, MA Janet FitzGerald, M.S., CCC-SLP Rowley, MA, member of Massachusetts for Safe Technology
	Anna Nelson, with EMR-Syndrome, Pittsfield, MA Tais Howard, Lynn, MA
MD - Maryland	Safe Tech International, Kate Kheel, Taneytown, MD

	Katherine Katzin, Takoma Park, MD
ME - Maine	Global Union Against Radiation Deployment from Space, Bowdoinham, ME
	Maine Coalition to Stop Smart Meters, Richmond, ME
	Friends of Merrymeeting Bay, Richmond, ME
	Ed Friedman, Richmond, ME
	Janet Drew, retired Registered Nurse, York, ME Jen Goddard, Board Certified Doctor of Natural Health, Thriving Proof Holistic Health Practice, and 2025 United States of America Mrs. Maine Pageant, Brewer, ME
MN - Minnesota	DAMS, Inc., 501(c)(3), educates public on dental health issues, St. Paul, MN
	Safe Tech Minnesota, Leo Cashman, Petra Brokken, St. Paul, MN
MO - Missouri	Loraine Uebele, FACHE, Kansas City, MO
	Marty Freyer, Mexico, MO
	David B. Klug, Kansas City, MO
	Bethany Klug, Supporter and Advocate for EMF Affected, Kansas City, MO
NC - North Carolina	Sharon Behn, Arden, NC
	Susan Marlan, Asheville, NC
	Nicole Stallings, with EMR-Syndrome, Black Mountain, NC
NE - Nebraska	Tammy Lee, with EMR-Syndrome, Lincoln, NE
	Linda Becker, Lincoln, NE
NH - New Hampshire	New Hampshire for Safe Technology, Deb Hodgdon with EMR-Syndrome, Stratham, NH
	Kent Chamberlin, PhD, former member of NH Commission to Study Env't'l and Health Effects of Evolving 5G Technology; Prof. & Chair Emeritus, Fullbright Distinguished Chair, Univ of NH, Coll. of Eng and Phys Sci, Dept. Of Electrical and Computer Eng
NJ - New Jersey	Lisa Allen, Plainfield, NJ
	Diane Grossi with EMR-Syndrome, East Hanover, NJ
NM - New Mexico	Lori Bagley, concerned individual with EMR-Syndrome, Albuquerque, NM
NY - New York	New Yorkers 4 Wired Tech, New York, NY
	New York City Alliance for Safe Technology, New York, NY
	Safe Tech Westchester, Ruth F. Moss, Westchester, NY
	EMR-Syndrome Alliance, Westchester, NY
	New York Safe Utility Meter Association (NYSUMA), Woodstock, NY
	Amy Harlib, Concerned Citizen, New York, NY
	Fred P. Sinclair, Jr., Alfred, NY
	Kate Reese Hurd with EMR-Syndrome, Philmont, NY
	Gabriela Munoz with EMR-Syndrome, Carmel, NY
	Stephanie Stewart, LaGrangeville, NY
	Virginia Caswell with EMR-Syndrome, NYC (Stuyvesant Town), NY
	Barbara Stemke, New Paltz, Ulster County, NY

	Toby Stover, High Falls, NY
OH - Ohio	Craig McDowell, veteran, Rocky River, OH Erin McDowell, Registered Nurse, with EMR-Syndrome, Rocky River, OH, Southwestern Ohio for Responsible Technology (SWORT) Jennifer Manzler, Certified Health & Wellness Coach, Cincinnati, OH, SWORT Sean Polacik, Automation Control Systems Technician, OH Cristina Shonk, Cincinnati, OH
OR - Oregon	Oregon for Safer Technology, Ashland, OR Kelly Marcotulli with EMR-Syndrome, Ashland, OR The Soft Lights Foundation, Mark Baker, President, Beaverton, OR
PA - Pennsylvania	Pennsylvanians for Safe Technology, Donna DeSanto Ott PT DPT MS FMCHC, Founder & President, PA Southwest Pennsylvania for Safe Technology, Mount Pleasant, PA, Susan Jennings, MPA, BA, Founder (son has EMR-Syndrome) Jan Kiefer, Scottdale, PA
RI - Rhode Island	Rhode Island 4 Safe Tech, Sheila Resseger, M.A., Co-Founder, Cranston, RI
TN - Tennessee	Janet Taché, Hohenwald, TN
UT - Utah	Rosemarie Russell, member of The Women's State Legislative Council of Utah, Hurricane, UT
VA - Virginia	Virginians for Safe Technology, Jenny DeMarco, Communications Director, and Mary Bauer, retired radio frequency engineer, Fredericksburg, VA Charles Frohman, M.Ed, HIA, lobbyist, National Health Federation, Williamsburg, VA Linda M. Cifelli, retired Registered Nurse, Williamsburg, VA Grace Hilbert, with EMR-Syndrome, Annandale, VA
VT - Vermont	Martine Victor, Manchester, VT
WA – Washington	Citizen League Encouraging Awareness of Radiation, C.L.E.A.R., Mark Wahl Director, Langley, WA
WI - Wisconsin	Katrine Colton, with EMR-Syndrome, Sheboygan, WI Tracey Seymour, with EMR-Syndrome, Westfield, WI Carol Seibert, with EMR-Syndrome, Trevor, WI
<b>Europe</b>	<b>Filers</b>
Sweden	Eva Christina Andersson, E.U., Sweden