Hello FCC,

Please include my comment in opposition to proceedings on the expediting and expansion of 5g networking onto public right of way and poles, and the stand-down of copper-lines in both urban and rural areas. I request that a 30-day extension to comments be granted on these proceedings, #s1784 & 1779, with a 30-day extension to replies on comments.

Further, I request a moratorium on these and other expansion of networking policy recommendations by FCC until such time that evidence can be shown that these two docket items, and expansions like them when implemented, can comply with the Americans with Disabilities Act and 42 U.S.C 12101 et seq. I am an acknowledged member of the protected class with the characteristic of ‘disabled by electromagnetic sensitivities’ (EMS), which is recognized by The Access Board. <https://www.access-board.gov/research/completed-research/indoor-environmental-quality/introduction> Exposure to cellular technology violently exacerbates my genetic vertigo disease and exacerbates my life threatening upper cervical spinal column and brain stem injury and the pervasive nerve damage remaining after recovery. This effect on damaged, or amputated nerves and autonomic nervous system injury and genetic damage such as mine is well known, and is specifically referenced in appendices and testimony at the ADA’s site. I have included below links and excerpts to show that FCC and its agents are not exempt from federal requirement for EMS disabled accommodations. <https://www.access-board.gov/research/completed-research/indoor-environmental-quality/introduction?highlight=WyJlbWYiLCJlbWZzIiwiZW1mJ3MiLCJoeXBlcnNlbnNpdGl2aXR5IiwiZW1mIGh5cGVyc2Vuc2l0aXZpdHkiXQ==>

This matter is of grave import to States and their citizens with disabled rights grievances who are bound by threats of FCC pre-emptive jurisdiction actions to implement roll outs such as the one mentioned above. But when state disabled rights complaint proceedings cannot be resolved due to FCC’s failure to comprehend the nature of the technical difficulties required for disabled rights compliance, and then FCC blocks States and individuals from the access to the time and expertise to manage and solve those disabled compliance difficulties. The States are then subjected to unfunded liability with increasing case numbers of disabled rights complaints. FCC’s failure to provide policy or suggest procedure to cure this unfunded mandate on state and local agencies, and FCC’s failure provide language to comply with sister agency technical requirements violates the letter and spirit of statutes and laws enacted by the American’s with Disabilities Act.

The Access Board the ADA’s Congressionally designated arm defines the authority derived from ADA, where it says:

**“IEQ Indoor Environmental Quality Project.** The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent federal agency devoted to accessibility for people with disabilities. The Access Board is responsible for developing and maintaining accessibility guidelines to ensure that newly constructed and altered buildings and facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act are accessible to and usable by people with disabilities. In November 1999, the Access Board issued a proposed rule to revise and update its accessibility guidelines. During the public comment period on the proposed rule, the Access Board received approximately 600 comments from individuals with multiple chemical sensitivities (MCS) and electromagnetic sensitivities (EMS). They reported that chemicals released from products and materials used in construction, renovation, and maintenance of buildings, electromagnetic fields, and inadequate ventilation are barriers that deny them access to most buildings.”

Yet the 5G infrastructure roll out and copper line retirement plan cannot comply in any measure with this statement. FCC promotes a deeply flawed process and tacitly encourages discrimination by its favored agents who cannot comply with FCC directives without violating disabled rights statutes. A second key excerpt for the EMS disabled indicates,

“The Board has not included such provisions in their rules, but they have taken the commentary very seriously and acted upon it. As stated in the Background for its Final Rule [Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Recreation Facilities](https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/background/ada-aba-accessibility-guidelines-2004)

*The Board recognizes that multiple chemical sensitivities and electromagnetic sensitivities may be considered disabilities under the ADA if they so severely impair the neurological, respiratory or other functions of an individual that it substantially limits one or more of the individual's major life activities.(emphasis added)* The Board plans to closely examine the needs of this population, and undertake activities that address accessibility issues for these individuals. (<https://www.access-board.gov/research/completed-research/indoor-environmental-quality/introduction>) “

I object to demand an extension of comment and a discussion of moratorium on the implementation of 5G roll out and copper line retirement. Implementation of either, or both, without policy language designated to protect me and those like me will act in concert, and separately, to severely impair one or more of my major life activities and will violate my disabled rights due that,

1. It is a medical necessity that I retain my access to copper-line land, based phone service. I suffer life threatening effects from EMF emissions that are inherent to voice over cable line services, power line communications, small cells and metering, and wireless enabled phone services, etc. Therefore, any alteration of the 1996 Telecommunication Act’s 110 STAT. 65 section governing use of copper line phones- any exemption to provide services to me, alteration of my present services, or expansion of other services that overcome stability in my present disabled condition would create a life-threatening barrier to my access to emergency services and to my own home and would violate my 14th Amendment rights to liberty, equal access and free speech.
2. It is a medical necessity that I avoid uncontrolled proximity to small cell, pole mounted telecommunications facilities of the type proposed by 5G coverage. I am forced to live in low population communities with weak cellular coverage and no nearby small cell facilities such as EMF emitting utility invoicing tools, and other wireless emitters. I have exerted extreme effort and expense to move away from these emitters. But the above actions follow me, without options for my accommodation and I have no where left to go- despite that I also deploy professionally installed shielding tactics to my home, my wardrobe and any vehicle inside of which I travel.

My disabled status is formally acknowledged by a favorable settling of a EMS disabled based complaint at the US Department Housing and Urban Affairs. I receive a state and federally documented 504 qualifications for EMS disabled accommodation at my institution of higher learning, Portland State University (pdx.edu). After a 30-year career in Risk Management and Branding at enterprise level REITs management, I now attend the Mark O. Hatfield School of Government. I will finish in Summer of 2017 my Masters of Science degree on Governance Theory and Comparative Politics so I am trained to examine and analyze policy language. There is no FCC originating language proposed for the EMS disabled, no policy recommendations for accommodation or technical guidance, whatsoever.

As the Technical Agency of record regulating wireless products and roll out of infrastructure FCC violates its own mission statement due specifically to the fact that FCC aggressively invokes and preserves its oversight against all parties to technical matters. But commercial actors who are favored as FCC agents designated to roll out of this 5G small cell technology scheme cannot comply with Americans with Disabilities Act; FCC not only provides no guidance but instead incentives ignorance and potentially unlawful acts committed against the EMS disabled through interceding on FCC favored agents’ behalf with Amicus Briefs, or threats of the same.

On this account FCC sets up a catch 22 for States and disabled persons who suffer unfunded mandates and liability (on the State) and unrepresented mandates to unwanted disabling exposure (the EMS disabled person, me) and then blocks both aggrieved parties- state and individuals- from the ability to protect or correct disabled rights errors of law.

FCC’s rush to deploy 5G infrastructure and copper line retirement fails to acknowledge the disparate impact of the Agency’s policy recommendations and rulemaking that favors one class of persons- technology users- over the EMS disabled. This the unlawful pattern and practice of discrimination by the wireless industry and their regulatory agency, the FCC, violates the precedent that all Congressional Acts are assumed to adopt language that, when enacted and practiced, is consistent with compliance of all other Acts. Instead the FCC’s rulemaking has remained silent- and complicit by omission- and continues with its unlawful and biased policies towards the EMS disabled.

In 2013, this matter has shown evidence of importance enough that FCC took public comments and complaints on the scope of updating general standards of maximum permissible exposures. FCC has not acted on these comments despite no updates to safety and public health standards for over 20 years. FCC’s actions, however, routinely adopt policy and definitions biased towards wireless using favored agents with recommendations that fundamentally alter the delivery of utility services and telephone services. No due process has been provided those who will suffer, like me, with grave impacts to the vulnerable and medically disabled persons. This is occurring without notice- and with proposals, too, for expedited notice of changes in services without consultation to legitimate objections for qualified medical and peer reviewed science and withdepraved indifference by FCC policy and practice.

FCC’s failure to update its methods and standards to include compliance with a sister Agencies and statutes like The Americans With Disabilities Act and 42 U.S.C. 12101 et seq invites a facial challenge to the 1996 Telecommunications Act, Chapter 5 as unconstitutional and unable to manage its duties in the public interest by promulgating rules set up to consequentially dissolve statutes and rulemaking, leaving the EMS disabled with no legal recourse . FCC extends it reach with the above action over broadly in the manner of United States v. Lopez where the jurisdiction of the FCC cannot be distinguished without “inference upon “inference” by local state or sister federal Agencies who are bound to enact disabled rights statutes, like HUD, or State Human Rights Commissions. This overreach was challenged in The Gun Free School Zones Act and its unconstitutional oversight was dissolved and the Act was overturned.

FCC has no authority to impose regulations whose consequence produce an unfunded cost in appropriations in state litigation costs, and whose consequences so burden the assertion of my disabled right to be reasonably free from indoor air quality interference from EMF emitting tools that I must become a ‘serial filer’ of discrimination complaints at State and federal agencies.

My own legal actions in defense of the constant threat and actual loss of my civil rights have been accepted and investigated at multiple agencies with prima facie evidenced sufficient to merit investigations and resolution at federal and State levels, including US Department of Housing and Urban Development, US and State of Oregon Department of Education and Disability Resources divisions for both, Oregon State Agencies including the Public Utility Divisions, Department of Civil Rights Divisions, multiple municipal utilities entities, and private landlord tenant actions. All of these agencies- barring only the landlord tenant dispute over disabled modifications required at my home- invoke FCC jurisdictional threats and interference with ADA administrative solutions I am allowed under the law. FCC creates a problem for me, and any who are like me, where there should be none and the invisible hand of the market place should be left to solve the problem. But that is not happening due to FCC implied actual overreach. My own actions have likely invoked approaching 7 figures of costs to the public coffers in defense of my disabled rights.

The rising body of material facts support plausibility for, and mounting evidence sufficient to, defeat both *Twombly* and *Iqbal* standards to bring class action on conspiracy and anti-trust allegations of conscious parallel conduct among the favored agent, FCC providers of service on the basis of conspiracy to commit unlawful acts and to violate the rights of the EMS disabled, to block the assertion of their rights and to develop policy and practice with a pattern of non-neutral discriminatory policy with disparate impact to a disadvantage class of persons.

The causal agent of this pervasive and systemic chilling effect firstly originates in FCC’s over use of amicus briefs that sent a message rolling across the US. The cure, then, is for FCC to effect change in policy and practice of recommendations and standards to include the EMS disabled going forward, changes that are sufficient to ameliorate and mitigate the consequences of FCC failures in technical recommendations to its favored agents in the wireless industry. If FCC fails to do so then it exposes itself to a facial challenge based on past practice incongruent with constitutional norms for institutional rules enforcement. Incongruence in enforcement by institutional rule of law a key indicator to the failure of effective democracy and degrades a free and fair society versus one that is elite favoring and socially unjust. The Americans with Disabilities Act, in conjunction The Access Board, specifically recognizes the EMS disabled and how they are to be accommodated so that they are not forced into unwanted financial burdens, are afforded dignity and compassion and are not to be discriminated against without any legal recourse.

FCC has engaged in a long practice of non-neutral discrimination in the favor of wireless industry by providing Amicus briefs in opposition to the TCA enumerated dual regulatory authority of cities to develop right of way zoning practices that reflect a city’s character, including for the reasons of safety aesthetics. This intrusion continued unabated until *Sprint v. San Diego* 543 F.3d 571 (2008) harmonized erroneous interpretations to limit local zoning interference with valid public goals where the holding clarified that the TCA does not give expansive authority to FCC and its favored agents, that the language was, in fact, narrowed in its authority to the former entities, requiring that proof of interference with pre-emptive roll out authority may not be speculative, or inferred, but must be materially proved, saying ,*“It is certainly true that a zoning board could exercise its discretion to effectively prohibit the provision of wireless services, but it is equally true (and more likely) that a zoning board would exercise its discretion only to balance the competing goals of an ordinance—the provision of wireless services and other valid public goals such as safety and aesthetics. In any event, Sprint cannot meet its high burden of proving that "no set of circumstances exists under which the [Ordinance] would be valid,"* [*Salerno, 481 U.S. at 745, 107 S.Ct. 2095,*](http://scholar.google.com/scholar_case?case=5741581181224640770&hl=en&as_sdt=2,48&as_vis=1) *simply because the zoning board exercises some discretion”*

*Sprint* clarified that telecommunication providers with objections could access legal recourse in the expedited judicial review under 47 U.S.C. § 332(c)(7)(B)(ii) & (v) where robust debate, city by city, could have allowed for the examination and avoidance of what has become a massive body of objections from EMS disabled persons in virtually every state. Actions are moving through federal agencies, state courts, human rights commissions, PUCs and consumer rights organization. FCC’s disregard of the social ills that have risen as a result of the overreach was foretold in objections about overreach and lack of authority to enforce pole mounts in the right of way in 2000. Its own members subsequently resigned in protest. What followed was the truncated technical agency oversight that studiously and obviously avoided even handed regulation in the public’s interest- including the EMS disabled- and authored the causal chain in the growing burden to the courts and litigants forced to resolve infringements on local governance and personal freedoms by the FCC ‘free hand’ offered in the dark, to a one-dimensional interest group the wireless device industry.

It is logically inconsistent for my individual and unique genetic disease and injury history to be ignored as if my life-threatening effects from exposure to EMF emitting utility meters, power line communications (whether for invoicing utility power consumption or for broadband access), wireless emissions from nearby cellular antennas and Wi-Fi must not be of concern because, generally, other persons have not the same experience. I urge you to extend comments on this matter, including replies to comment and I urge you to propose a moratorium or a substantial slow down on the expansion and roll out of 5G technology and copper-line infrastructure destruction until these matters can be fair and justly resolved for the EMS disabled.

Sincerely,

Merry Callahan