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February 12, 1995

Att: Secretary of the Commission  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

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FEB 16 1995

RESPONSE TO: RULEMAKING PETITION NO. 8577  
Published in *FCC Public Notice* - January 18, 1995

FCC MAIL ROOM

Dear Secretary:

We write this letter in response to the above Petition for Rulemaking (FCC No. 8577) filed by the Cellular Telecommunications Industry Association (CTIA) on December 22, 1994. We strongly oppose CTIA's petition to the Federal Communications Commission to override state and local regulations dealing with microwave towers and the installation of antennas. The legal test for pre-emption cannot be met because states and localities are permitted to set reasonable regulations to protect the public safety and welfare of citizens, as allowed by the 10th Amendment of the United States, and State, Constitution. State regulations do not prevent building towers and installing antennas. States merely seek to regulate frequencies transmitted by, and the location of, antennas to protect the health, safety, and welfare of citizens.

Eliminating state and local regulation would impair the health, safety, and welfare of citizens exposed to antenna radiation which poisons the body and environment. No congressional action has been taken to pre-empt state and local regulations in this very important health and safety area. Therefore, FCC has no legal or legislative basis on which to challenge state and local regulatory procedures in this matter. As a federal agency, FCC has no grounds for challenging a state or local law without existence of legislation enacted by Congress.

It is inappropriate for FCC to substitute its judgment on policies regarding antenna construction, when Congress has chosen to remain silent on this matter and allow reasonable regulation of tower and antenna construction by state and local governments.

There is no justification for FCC to conduct rulemaking and threaten our harmonious, and constitutional, system of reasonable zoning regulation.

We respectfully request that FCC close this document on the basis that this is a matter of state and local law and policy. It is inappropriate for FCC to eliminate carefully crafted state and local regulations of this sort when no rational, federal policy addresses this matter.

Thank you for your careful consideration of and attention to this response.

Respectfully,

Jeanne B. Clark, MLS, LA  
Info-Search/NW  
PO Box 841  
Bothell, WA 98041

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Rulemaking No. 8577  
Federal Communications Commission  
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**Subject:** Objection to RM # 8577 Rules Sec. 333 and 2(b), Cellular Telecommunications Industry Associations request to preempt state and local regulation for tower siting.

I strongly object to Rulemaking # 8577 Rules Sec 2(b), Petitioner: Cellular Telecommunications Industry Associations, which requests "amendment of Commission's Rules to Preempt State and Local Regulation of Tower Siting for commercial Mobile Services and Providers."

Siting of cellular towers should be a local decision, decided by the people using the service and those affected by the emissions from the tower.

I also object to the lack of public exposure to this petition. People need to be informed about issues that can affect their health and property values.

*Burke E. Magee II*  
Burke Magee II  
28020 NE 21st St  
Carnation, WA  
98014

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Siting of cellular towers should be a local decision, decided by the people using the service and those affected by the emissions from the tower.

I also object to the lack of public exposure to this petition. People need to be informed about issues that can affect their health and property values.

*Glenna Cox*

Glenna Cox  
P.O. Box 581  
Carnation, WA  
98014

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500 23rd Street, **FCC MAIL ROOM**  
Washington, D.C. 20037

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Secretary of the Commission  
Rulemaking No. 8577  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Secretary:

I am writing this letter to express my strong opposition to the Cellular Telecommunications Industry Association's petition to the FCC to override state and local regulations of antennas. The FCC's Public Notice of a Rulemaking on this petition was published on January 18, 1995 (Number 8577).

State and local regulations do not prevent the building of antennas - but do seek to REGULATE the FREQUENCIES TRANSMITTED and the LOCATION of ANTENNAS in order to PROTECT the HEALTH, SAFETY, and WELFARE of its citizens.

The legal test for pre-emption cannot be met in this case because there is no inherent conflict if the states set reasonable regulations to protect public safety and welfare. Such action is allowed and protected by the 10th Amendment to the Constitution.

Furthermore, no congressional action has been undertaken to pre-empt state and local regulations in this important matter. As a federal agency, the FCC has no legal grounds for challenging a state law or regulation without legislation from Congress.

Eliminating state and local regulations of antennas, such as you propose to allow, would impair the health, safety, and welfare of citizens who would be exposed to radiation poisoning.

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So long as scientific evidence on the damage caused by antennas and cellular communications equipment is neither conclusive nor definitive, and so long as radiation poisoning has been proven to cause great damage to the health of not only individuals but whole communities, I respectfully request that the FCC settle this matter on the basis that it is for the states and local governments to decide. It is inappropriate for the federal government, through the FCC, to eliminate carefully crafted local regulations when no rational, federal policy addresses this matter.

Thank you for taking my views into account.

Sincerely,



Abby L. Gilbert