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October 8, 1996

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BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Attn: Chief Cable Services Bureau
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93-62

Dear Mr. Caton:

Transmitted herewith for filing on behalf of the Electromagnetic Energy Association are an original and nine copies of its Comments on Petitions for Reconsideration.

Should there be any questions regarding this matter, please communicate with this office.

Very truly yours,

John I. Stewart, Jr.

Enclosures

cc: Honorable Reed Hundt, Chairman
Honorable James H. Quello
Honorable Rachelle B. Chong
Honorable Susan Ness

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of	)	
Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation	)	ET Docket No. 93-62

COMMENTS ON PETITIONS FOR RECONSIDERATION

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October 8, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation	)	ET Docket No. 93-62

To: The Commission

COMMENTS ON
PETITIONS FOR RECONSIDERATION

Pursuant to Section 1.429(f) of the Commission's Rules, the Electromagnetic Energy Association ("EEA"),[1] by its attorneys, provides the following comments on certain of the Petitions for Reconsideration filed in the above-captioned proceeding.

Several parties in addition to EEA sought reconsideration or clarification of aspects of the Commission's decision to grant only incomplete preemption of state and federal regulation that is inconsistent with its RF exposure standards. Ameritech Mobile Communications, Inc. ("Ameritech") asks the Commission to

[1] EEA is a coalition of companies and trade associations representing a broad spectrum of communications businesses, consumer products and industrial applications that use electromagnetic energy. EEA and its members have participated actively in this proceeding, and EEA filed a Petition for Reconsideration urging adoption of a comprehensive preemption rule and an RF exposure standard based consistently on the 1992 ANSI/IEEE standard.

expand the preemption rule it adopted in the Report and Order to preempt state and local regulation of the operation of personal wireless facilities as well as their placement, construction and modification. Ameritech Petition for Reconsideration and Clarification, at 9-11.[2] The rationale presented by Ameritech in favor of such preemption, however, applies with equal force to all FCC-licensed RF transmitters, not just personal wireless service transmitters. Indeed, Ameritech's Petition provides additional reasons why the Commission's partial preemption rule will have the effect of unduly impeding the construction and operation of FCC-licensed facilities. As EEA demonstrated in its own Petition for Reconsideration, federal preemption should be applied equally across the board.

The American Radio Relay League, Incorporated ("ARRL") makes very much the same points as EEA in demonstrating why the Commission should adopt a preemption rule that encompasses all FCC-licensed RF transmitters rather than only some. ARRL Petition for Partial Reconsideration, at 13-16. It emphasizes that no justification was offered -- or exists -- for distinguishing among types of RF transmitters, either from a health and safety perspective or from the perspective of state or local regulatory objectives. Id. at 14-15. But ARRL's compelling

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[2] The request of the Ad-hoc Association of Parties Concerned About the Federal Communications Commission's Radiofrequency Health and Safety Rules ("Ad Hoc") for a clarification of the scope of the preemption rule, Ad Hoc Petition for Reconsideration at 13-14, is either unnecessary given the express scope of the current version of the rule or unjustified to the extent it seeks a reduction in that scope. In any case, the preemption rule should be expanded to encompass all other RF transmitters, which are similarly situated with personal wireless service transmitters in terms of health and safety isssues.

arguments do not support the catch-all exception it apparently suggests, which would eviscerate the premption rule altogether.[3] Instead, the Commission should adopt a consistent and comprehensive preemption rule, as EEA has requested.

Finally, EEA agrees with the Petitions of other parties urging reconsideration of the substantive RF guidelines, particularly those, such as the Petition for Reconsideration/Clarification filed by U S WEST, Inc., that request adoption of an unadulterated 1992 ANSI standard. This position has also been supported in presentations made by the Department of Defense and others since the adoption of the Report and Order in this proceeding.

Respectfully submitted,

ELECTROMAGNETIC ENERGY
ASSOCIATION

By: _____

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October 8, 1996

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[3] ARRL argues for comprehensive preemption "absent compelling scientific evidence in the possession of the State or local authority at the time of adoption of the regulations tending to prove that more restrictive standards than the prevailing Federal standard are necessary for the protection of health and safety." Id. at 15-16. It is just such state and local inconsistencies with FCC standards, however, that Congress directed the Commission to preempt in Section 704 of the Telecommunications Act of 1996, and which the Commission should preempt with respect to all RF transmitters, not just some.

CERTIFICATE OF SERVICE

I, John I. Stewart, Jr., hereby certify that I have caused copies of the foregoing **Comments on Petitions for Reconsideration** to be mailed by first-class mail, postage prepaid, this 8th day of October, 1996, to the following:

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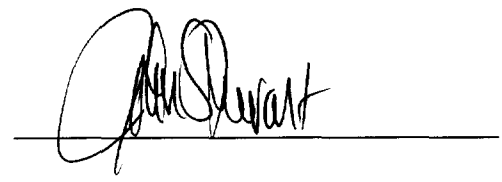
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