

EX PARTE OR LATE FILED



Federal Communications Commission
Washington, D.C. 20554
MAY 27 1998

DOCKET FILE COPY ORIGINAL

RECEIVED

JUN - 1 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Bob Graham
United States Senator
P.O. Box 3050
Tallahassee, FL 75201

Dear Senator Graham:

Thank you for your inquiry dated January 12, 1998, on behalf of your constituent Linda W. Chapin, Orange County Chairman, Orlando, Florida, concerning the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in her community. Your constituent's letter refers to issues being considered in three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comment on a Petition for Further Notice of Proposed Rule Making filed by the National Association of Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comment on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter, your constituent's letter, and this response will be placed in the record of all three proceedings and will be given full consideration.

At the same time, the Commission is actively pursuing initiatives that we hope will render any Commission action limiting State and local authority unnecessary. Commission staff, working with the Commission's Local and State Government Advisory Committee, is bringing together representatives of industry and municipal governments to discuss mutually

The Honorable Bob Graham

2.

acceptable solutions to the challenges posed by facilities siting. Chairman Kennard has stated that preemption of local zoning authority should be a remedy of last resort, and that the Commission should not consider preemption until the possibilities for constructive dialogue have been exhausted.

Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,



for Steven E. Weingarten
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

cc: CWD
Dockets (2)
John Conwell
j:\congress\9800801



Federal Communications Commission
Washington, D.C. 20554
MAY 27 1998

The Honorable Bob Graham
United States Senator
P.O. Box 3050
Tallahassee, FL 75201

Dear Senator Graham:

Thank you for your inquiry dated January 12, 1998, on behalf of your constituent Linda W. Chapin, Orange County Chairman, Orlando, Florida, concerning the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in her community. Your constituent's letter refers to issues being considered in three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comment on a Petition for Further Notice of Proposed Rule Making filed by the National Association of Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comment on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter, your constituent's letter, and this response will be placed in the record of all three proceedings and will be given full consideration.

At the same time, the Commission is actively pursuing initiatives that we hope will render any Commission action limiting State and local authority unnecessary. Commission staff, working with the Commission's Local and State Government Advisory Committee, is bringing together representatives of industry and municipal governments to discuss mutually

The Honorable Bob Graham

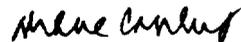
2.

acceptable solutions to the challenges posed by facilities siting. Chairman Kennard has stated that preemption of local zoning authority should be a remedy of last resort, and that the Commission should not consider preemption until the possibilities for constructive dialogue have been exhausted.

Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,



for Steven E. Weingarten
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

cc: CWD
Dockets (2)
John Conwell
j:\congress\9800801

Bob Graham
Florida



United States Senate

Washington, D.C.

Date 01 / 12 / 98

WTB
9/1-182
804

Ms. Judith Harris, Director
Federal Communications Commission
Office of Legislative Affairs
1919 M Street, Room 808
Washington, DC 20554

Enclosed is a letter from one of my constituents who has concerns which come under the jurisdiction of your agency.

I would appreciate your reviewing the information that has been presented and providing me with a written response. Please send your reply to the attention of:

Ms. Marcia K. Rivenbark
Office of Senator Bob Graham
P.O. Box 3050
Tallahassee, FL 32315

Phone 850-422-6100
Fax 850-422-0359

Your cooperation and assistance are appreciated.

With kind regards,

Sincerely,

A handwritten signature in cursive script that reads "Bob Graham".

United States Senator

Constituent's Name: LINDA CHAPIN



December 30, 1997

Honorable Bob Graham
United States Senate
Post Office Box 3050
Tallahassee, FL 32315

RE: Federal Communications Commission (FCC) Proposed Rule Making Regarding Tower Locations

Dear Senator Graham:

The FCC is considering three proposed rules, all of which would preempt local zoning authority to various degrees. The first would preempt local authority to establish temporary moratoria on cellular tower siting; a second would amend the existing rule on the environmental effects of radio frequency emissions from cellular towers, including an attempt to remove local government from monitoring radiation from cellular towers; and a third would preempt much of local governments' authority over the zoning and siting of broadcast towers.

Orange County views these rules as unwarranted intrusions into local government authority. The County Attorney's Office has filed briefs with the FCC stating the County's case. Copies of the County's responses are attached for your information. Our federal lobbyists will be working with the Congress on these matters. And the National Association of Counties (NACO) is at the vanguard of this fight, working with the FCC, the Congress, and the Administration on behalf of county governments.

In fact, Orange County has joined NACO's Telecommunications Legal Defense Fund. NACO will coordinate with the U.S. Conference of Mayors and the National League of Cities in the hiring of counsel to represent local governments before the FCC and in the courts on cases the local government organizations believe to be precedent setting and related to the issues mentioned above.

In conclusion, in an era in which devolution has been a watchword, it is ironic that some in Washington seem to want to preempt traditional local zoning powers. I hope I can count on you to keep an eye on the FCC's activities.

LINDA W. CHAPIN, *Orange County Chairman*

201 South Rosalind Avenue • Reply To: Post Office Box 1393 • Orlando, Florida 32802-1393

Telephone (407) 836-7370 • <http://www.citizens-first.co.orange.fl.us>

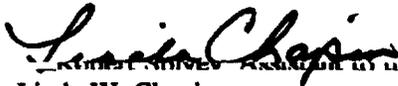
Commissioners: Bob Freeman, Dist. 1 • Tom Staley, Dist. 2 • Mary I. Johnson, Dist. 3 • Clarence M. Hoenshine, Dist. 4 • Ted B. Edwards, Dist. 5 • Made Butler, Dist. 6

Honorable Bob Graham

December 30, 1997

Page 2

Sincerely Yours,



Linda W. Chapin

Orange County Chairman

c. Board of County Commissioners

Jean C. Bennett, County Administrator

Tom Wilkes, County Attorney

Paul Chipok, Assistant County Attorney

~~Robert Spivey, Assistant to the County Administrator~~

Skip Bafalis, Alcalde & Faye