

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

RECEIVED

AUG 14 2000

Administrative Information
Date: 8/14/00

In the Matter of the Petition for
Rulemaking filed by Public
Employees for Environmental
Responsibility ("PEER")

) DOCKET FILE COPY (BIDDING)
)
) RM-9913
)

**Comments on the Petition for Rulemaking
filed by
Public Employee's for Environmental Responsibility ("PEER")**

**Personal Communications Industry
Association**

Robert L. Hoggarth
Senior Vice President
Eddie Gleason
Director
Government Relations
500 Montgomery Street, Suite 700
Alexandria, Virginia 22314
703-739-0300

John F. Clark
Its Counsel
Perkins Coie LLP
607 Fourteenth Street, N.W.
Suite 800
Washington, D.C. 20005-2011
202.628.6600

No. of Copies rec'd 0
List ABCDE

PCIA's Comments on the Petition for Rulemaking filed by Public Employee's for Environmental Responsibility

Personal Communications Industry Association ("PCIA") submits the following comments in response to the Petition for Rulemaking filed in this matter by the Public Employees for Environmental Responsibility ("PEER") and placed on public notice on July 14, 2000 in Report No. 2426.

PCIA

PCIA is an international communications association dedicated to advancing seamless global wireless communications through its public policy efforts, marketing programs, international events and educational programs. PCIA members comprise a broad base of business sectors in wireless voice and data.

Comments

The PEER petition focuses primarily on alleged problems with the Commission's environmental review of submarine cable landing licenses. PCIA and its members express no opinion with respect those issues.

To the extent that the PEER petition purports to describe similar problems in the Commission's environmental processing of applications for wireless telecommunications and broadcast facility licenses and tower registrations, PCIA can confirm from its members direct experience that this petition misunderstands and mischaracterizes those procedures and therefore misstates the problem.

It is obvious from the petition that PEER has little or no direct knowledge of the environmental review procedures overseen by the Wireless Telecommunications and Mass Media Bureaus at the Commission. The petition's suppositions and

assumptions, do not reflect the regulatory reality or the actual environmental review procedures followed by these Bureaus. Neither do the examples or analogies in the petition reflect an understanding of the requirements of the National Environmental Policy Act ("NEPA") or the National Historic Preservation Act ("NHPA") and the rules promulgated by the FCC and the Advisory Commission on Historic Preservation ("ACHP") implementing these statutes.

This petition asserts that the FCC has failed to ensure NEPA compliance in connection with all of the projects it licenses.¹ This is of course untrue. For wireless telecommunications and broadcast facilities licensing, and for tower registrations, the FCC administers an environmental assessment and review procedure that is used for each facility and tower.

The PEER petition also suggests that the FCC cannot adequately discharge its environmental duties without an Office of Environmental Compliance.² PEER is obviously unaware that there currently exists in the Commercial Wireless Division of the Wireless Telecommunications Bureau, an Environmental Compliance Group ("ECG") that has operated for years reviewing environmental compliance in the wireless telecommunications and infrastructure industries. The ECG is active in reviewing EAs, assessing environmental effects and mediating and negotiating

¹ Petition Summary at 3.

² Petition at 11.

mitigation of effects of proposed and built towers and wireless facilities, particularly for those that may impact the more important historic resources in the country.

Under current FCC procedures, the ECG is notified and consults with many State Historic Preservation Officers ("SHPO") and/or the ACHP on projects that are determined by a SHPO to cause an adverse effect on historic properties. In these procedures, the Section 106 process for historic properties and the review of other areas required by NEPA are conducted together, using the EA, and any information required by the ACHP rules, for both reviews. Moreover, in many cases, the completion of the Section 106 process is certified by a Memorandum of Agreement ("MoA") that is executed by representatives of the ACHP and/or SHPO, the applicant and the FCC. Thereafter, with the SHPO's local assistance, the ACG monitors ongoing compliance with terms of the MoA.

In short, based on PCIA's members' extensive experience with the FCC's procedures for processing applications for tower registrations and wireless facilities licenses, PCIA can confirm that the assumptions made in the PEER petition about these procedures do not match the actual procedures used at the FCC. Nor does the petition accurately describe the legal requirements and regulations governing the environmental review for such facilities. Finally, the PEER petition does not describe any step of that process or provision of those regulations that either requires or would benefit from any of the remedial actions that the petition suggests.

Conclusion

Based on the foregoing, PCIA asks the Commission to disregard any suggestions in the PEER petition regarding changes to the regulations or procedures in connection with the environmental processing of applications for wireless telecommunications facilities licenses and tower registrations, for the reason that any such suggestions are based on incorrect factual and legal assumptions and a lack of knowledge of the procedures they seek to correct.

Respectfully submitted,

**Personal Communications Industry
Association**

By: Robert L. Hoggarth by *JSE*

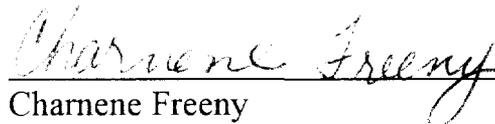
Robert L. Hoggarth
Senior Vice President
500 Montgomery Street, Suite 700
Alexandria, Virginia 22314
703-739-0300

John F. Clark
Its Counsel
Perkins Coie LLP
607 Fourteenth Street, NW
Suite 800
Washington, D.C. 20005-2011
202.628.6600

CERTIFICATE OF SERVICE

I, Charnene Freeny, hereby certify that I have on this 14th day of August 2000, sent via U.S. First Class Mail, postage prepaid, a copy of the foregoing PCIA's Comments on the Petition for Rulemaking filed by Public Employee's for Environmental Responsibility ("PEER") to the following:

Daniel P. Meyer
General Counsel
Public Employees for Environmental Responsibility
2001 S Street, NW Suite 570
Washington, D.C. 20009


Charnene Freeny