

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Notice of Proposed Rulemaking	)	
18 FCC Rcd 13187, 13188 ¶1 (2003)	)	ET Docket No. 03-137
	)	
And	)	
	)	
Service Rules for the Advanced Wireless Services	)	WT Docket No. 12-357
H Block---Implementing Section 6401 of the	)	
Middle Class Tax Relief and Job Creation Act of	)	
2012 Related to the 1915-1920 MHz and	)	
1995-2000 MHz Bands ¶53 footnote 95	)	

To: Office of the Secretary  
Federal Communications Commission  
Washington, DC 20554

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March 6, 2013

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### EXHIBITS

- A. Ulcek PowerPoint April 4, 2005
- B. FCC Consumer Policy Division Chief Stevenson Letter of March 14, 2012
- C. FCC Western Region EB Regional Director Dorch Letter of April 25, 2012
- D. Complaints EMR 013, 014, 015 and Correspondence with US Senator Claire McCaskill and  
FCC EB Chief of Staff Michael Carowitz
- E. E-mail Correspondence on Complaints EMR 012 and 044 Between FCC EB Northeast  
Regional Staff David Dombrowski and EMRPI President Janet Newton July, 2012

**I. IN ITS INITIAL COMMENT IN THESE PROCEEDINGS, THE EMRADIATION POLICY INSTITUTE (EMRPI) NOT ONLY DOCUMENTS THE INADEQUACY OF THE PRESENT FCC GUIDELINES FOR HUMAN EXPOSURE TO RADIOFREQUENCY ELECTROMAGNETIC FIELDS (FCC RF GUIDELINES) BUT ALSO ASSERTS THAT THESE FCC GUIDELINES ARE NOT BEING ENFORCED BY THE FCC ENFORCEMENT BUREAU (EB). (EMRPI Comment Paragraphs 43-48).**

1. Workers such as roofers, window washers, painters, HV/AC technicians, building engineers and superintendents, firefighters, wireless industry workers, and others (Rooftop Workers) and the public are NOT protected from RF radiation generated by wireless carriers above the lawful limits at more than one hundred documented sites across the country.

**2. RF radiation testing conducted for EMRPI has found spatially-averaged exposure levels to exceed the FCC RF Maximum Permissible Emissions (MPE) limits at hundreds of rooftop sites across all regions of the US.**

3. Since December 2011, EMRPI has filed complaints with FCC EB demonstrating that FCC RF limits were exceeded at over 100 rooftop sites all over the country. Despite placing EB as well as the FCC Chairman and Commissioners on notice of this noncompliance, there is no evidence that the EB has sanctioned any of the FCC licensees (Violators) of the RF limits at any of the sites even though these carriers “self reported” compliance. The FCC relies on the industry to "self report" its compliance with the RF limits. Wireless carriers have been misrepresenting that their sites are not over the FCC RF Guidelines.

4. The FCC’s reliance on signs on rooftops advising Rooftop Workers and the public to call phone numbers to assure that they can safely work or spend time near these antennas is totally misplaced. Time after time, EMRPI calls to posted numbers result in advising Rooftop Workers to go ahead and work by the antennas even though EMRPI’s investigation demonstrates that the RF levels were over the public limits. The industry rarely turns down the power following these phone inquiries.

5. The FCC discourages the public from filing complaints relating to its RF Guidelines.

Even formal documented complaints do not generate penalties against the Violators. If the highway patrol enforced driving rules in the same manner that the EB enforces compliance with FCC RF Guidelines, all drivers would feel welcome to drive at whatever speed they wished. EMRPI's complaints document sites across the country. Despite Freedom of Information Act (FOIA) requests, the FCC has produced no evidence that the EB has penalized any of the Violators at any of these sites.

## II. FCC PUBLICALLY REPRESENTS THAT IT ENFORCES STRICT COMPLIANCE WITH FCC RF GUIDELINES

### 6. At FCC website as of March 4, 2013 - About the FCC Enforcement Bureau

The Enforcement Bureau (EB) is the **primary** FCC unit for enforcing the provisions of the Communications Act, the Commission's rules, orders, and various licensing terms and conditions. **EB's mission is to investigate potential unlawful conduct to ensure: (1) consumer protection** in an era of complex communications; (2) a level playing field to promote robust competition; (3) efficient and responsible use of the public airways; (4) and **strict compliance with public safety related rules.** (Emphasis added.)

P. Michelle Ellison  
Bureau Chief

7. EMRPI's investigation demonstrates that this public representation is not true. EMRPI's experience is that, "Strict compliance with public safety related rules," is **rarely** enforced by the FCC.

## III. FCC RF RADIATION SAFETY POLICY

8. Jerry Ulcek, FCC Enforcement Bureau's Denver District Office, presented the "Overview of FCC RFR Safety Policy" on April, 4, 2005 in Las Vegas, Nevada that sets forth the rules, the methods to determine compliance, compliant sites, non-compliant sites and methods to address non-compliance. **Exhibit A Ulcek Powerpoint.** Per a flyer advertising a conference in 2007 Jerry Ulcek is:

- . . .an Electronics Engineer with the Federal Communications Commission (FCC) Enforcement Bureau . . .Jerry began with the FCC in 1991 in the Office of Engineering and Technology (OET), where he assisted in the development of the FCC's current radio frequency radiation (RFR) Rules; co-authored OET Bulletin No. 65 along with its

accompanying supplements, and worked on refining the RFR measurement techniques and licensee compliance requirements.

- He transferred to the FCC's Enforcement Bureau in 2000 and began inspecting and issuing the first fines for non-compliance with the FCC's RFR limits, and training other FCC Agents on conducting RFR measurements and inspections.
- Jerry holds a Bachelor of Science degree in Electrical Engineering Technology with a specialty in communications and antenna theory from the Milwaukee School of Engineering.
- Since the adoption and implementation of the updated FCC RFR regulations in 1996, many questions have been raised regarding compliance and licensee requirements.
- Great disparity exists between what the rules state and FCC enforcement.

9. The current base forfeiture for violation of the FCC RF Guidelines begins at \$10,000. This fine is a rarely-imposed event though there is reason to believe that at least 20% of rooftop carriers are in noncompliance with the rules. The methods outlined by Mr. Ulcek to address noncompliance are often given lip service. Rooftop Workers and the public are accessing rooftops with no knowledge of the danger of or control over their exposure. Hence all of these individuals fall under the FCC's "general population/uncontrolled" limits.<sup>1</sup> Those who attempt to get information generally receive little or no information and often the information is inaccurate.

#### **IV. ROOFTOP NONCOMPLIANCE KNOWN BY FCC FOR YEARS**

10. Mr. Ulcek's 2005 Powerpoint clearly shows that the FCC was aware of noncompliant rooftop sites. **Exhibit A slides 10, 13, 17, 20-22, 26-27.** The recent EMRPI investigation documents widespread noncompliance from 2011 to the present.

11. In 2011 EMRPI reported extensive noncompliance to the FCC Chairman and Commissioners:

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<sup>1</sup> See 47C.F.R.S1.1310,Table1(B). The **general population/uncontrolled limits** apply in **situations in which the general public may be exposed**, or in which **persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure.** 47 C.F.R.S1.1310. Note 2 to Table 1. from RF radiation exposures exceeding the FCC MPE limits. (Emphasis added.)

December 9, 2011

Julius Genachowski, Chairman  
Federal Communications Commission  
445 12th St. SW  
Room 8-B201  
Washington, DC 20554

**Re: Wireless Sites Nationwide Found in Violation of FCC Radiation MPE Limits**

Dear Chairman Genachowski:

A matter of grave concern has come to the attention of The EMR Policy Institute (EMRPI). American workers who require access to rooftops as a condition of their employment, as well as the general public who are able to access rooftops, are currently at great risk from being exposed to radiofrequency (RF) radiation from wireless communications installations at levels that exceed the FCC RF radiation maximum permissible exposure (MPE) limits as defined by law.

**RF radiation testing conducted for EMRPI found spatially averaged exposure levels to exceed the FCC RF MPE limits at hundreds of rooftop sites across all regions of the US.**

These findings are shocking for the sheer number of sites in violation of FCC RF safety limits and the magnitude of this non-compliance problem. Additionally, the number of non-compliant sites suggests a systemic pattern of non-compliance by many individual FCC license holders including the largest US wireless providers. It also suggests that these license holders are, and should be so considered, frequent repeated violators of federal RF safety limits laws.

All wireless sites were required to be in compliance with human RF radiation exposure regulations by September 1, 2000, over eleven years ago. FCC license holders are required to certify themselves to be in compliance with RF MPE limits on their license applications and renewals. The FCC has provided these license holders with clear guidance to enable them to operate sites in order to comply with the federal RF safety limits.

Workers such as roofers, window washers, painters, HV/AC technicians, building engineers and superintendents, firefighters, wireless industry workers, and others have been and continue to be concerned that their safety and health have been and continue to be compromised and harmed by exposure to RF radiation. Americans, be they telecommunications workers who have some understanding of RF radiation safety or workers and the public alike who have no understanding whatsoever, are all entitled to the same FCC regulatory oversight to ensure their health and safety.

Following being informed over time of the safety concerns of workers and the public EMRPI facilitated, with the assistance of experts, an investigation of wireless sites throughout the country and studied FCC public records regarding enforcement of RF radiation MPE limits and FCC licensing regulations.

EMRPI experts have identified and documented hundreds of wireless installations nationwide, in a relatively short time frame, that were at the time of testing in violation of 47 C.F.R.S 1.1310, Note 1 to Table 1. EMRPI experts were equipped with calibrated Narda survey equipment identical to FCC RF testing equipment when they visited hundreds of rooftop antenna sites across the nation. They assessed exposure levels in readily accessible locations frequented by workers and the public who are not aware or not fully aware of the potential to be exposed to and harmed by RF radiation emissions at illegal levels. The FCC Public exposure limits apply at all of the sites in question.<sup>2</sup>

Further, based on this investigation EMRPI has learned that very little information is available to workers or the public who frequent rooftop locations to enable them to exercise choice and control over their personal movements and exposure to RF radiation. Signage at rooftop sites was found to be lacking and incorrect. Several attempts to obtain information and guidance regarding RF exposure safety while at rooftop sites from control centers of FCC license holders have been documented. While no pertinent information or guidance regarding safety was obtained during these inquiries, inaccurate or misleading statements were recorded. Many workers have little to no knowledge whatsoever of their workplace exposure to RF radiation.

As part of the EMRPI investigation, experts examined the FCC public record database of NOV (Notice of Violation) records regarding violations of RF MPE limits. EMRPI's intent is to gain insight into the FCC Enforcement Bureau's perspective on enforcement of federal law pertaining to RF safety limit compliance and what, if any, corrective actions have been taken to enforce compliance since 2000.

EMRPI's examination of the FCC database indicates that despite hundreds of thousands of antenna sites in the US today, only one NOV has been issued to a rooftop site of a wireless license holder in violation of 47 C.F.R. S 1.1310. EMRPI experts visited the rooftop identified in this one NOV: EB-10-PA-0156 and found it still to be in violation of the law (see Exhibits). The fact that only one FCC NOV has, to EMRPI's knowledge, ever been issued to a wireless license holder and hundreds of rooftop sites have been found to be in violation of the FCC RF MPE limits, suggests that FCC license holders are exploiting deficiencies in the FCC enforcement program and oversight of these environmental rules.

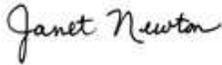
EMRPI's serious concern is that immediate action be taken to ensure the safety of workers and the public at locations EMRPI has identified. The EMR Policy Institute calls upon the FCC Chairman and the Enforcement Bureau to take immediate emergency action to diligently investigate sites EMRPI has identified as being in violation of federal law and to take immediate action to bring these sites into compliance. These FCC RF MPE violations are all the more egregious given the FCC RF safety limits ignore the scientific evidence demonstrating biological effects at levels well below the current federal RF guidelines and mounting calls for changes. Clearly, the FCC RF guidelines do not reflect the May 2011 WHO IARC classification of RFR-EMF as a possible 2B carcinogen.

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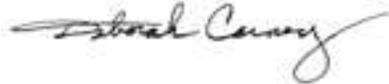
<sup>2</sup> The footnote found here in the Dec. 9, 2011 EMRPI letter is the same as footnote 1 on page 5 of this EMRPI Reply.

American workers and citizens are entitled by law to be protected from harmful RF radiation exposures. At very the least they deserve nothing less than swift action by the FCC to bring non-compliant and dangerous wireless sites into compliance with the current FCC RF MPE limits.

Sincerely,



Janet Newton,  
President



Deborah Carney, JD  
Vice President



Diana E. Warren  
Director

**V. MORE THAN ONE HUNDRED EMRPI COMPLAINTS DEMONSTRATING THAT LICENSED ROOFTOP WIRELESS CARRIERS ARE EXCEEDING FCC RF GUIDELINES FILED IN THE LAST 14 MONTHS.**

12. EMRPI provided the FCC with detailed expert reports containing measurements, photos and documentation of noncompliance on 101 rooftop sites across the United States.

A typical complaint is set forth here:

December 9, 2011

P. Michele Ellison  
Enforcement Bureau Chief  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

**Re: Radiofrequency Radiation Exposure Complaint No. EMR001**

Dear Ms. Ellison:

FCC license holder, MetroPCS AWS, LLC ("MetroPCS"), was issued a Notice of Violation (NOV) on November 10, 2010 regarding its communications site (station WQGA731) located at:

**216-19 90<sup>th</sup> Avenue  
Queens Village, New York**

On behalf of The EMR Policy Institute (EMRPI) radiation testing was conducted at this rooftop site using a calibrated Narda 8715 meter and B8742D probe and it was found to exceed the lawful limits as defined in 47 C.F.R. § 1.1310 for RF maximum permissible exposure (MPE). EMRPI hereby requests that the Enforcement Bureau take the appropriate action to investigate and ensure that the FCC license holders comply with FCC RF radiation MPE limits at this site as required by law.

There are two licensed wireless carriers on this rooftop, AT&T Mobility and Metro PCS. Using the Narda survey system, EMRPI's expert measured 514% spatially averaged of the FCC Public limit in front of one AT&T readily accessible antenna and 284% spatially averaged of the FCC Public limit in front of one Metro PCS antenna.

There were 2 signs on the rooftop for AT&T Mobility. EMRPI's expert called the phone number listed (800-638-2822) on the signs for safety guidance and after a very long and

Confusing discussion (>30 minutes) EMRPI's expert was told it was safe to work in front of the antennas to do roof repairs.

There were no signs on the rooftop for Metro PCS. A phone number and site ID were found on an equipment cabinet. EMRPI's expert called that phone number for safety guidance and was again told it was safe to work in front of the antennas to do roof repairs.

There is evidence of a recent roof repair in front of these antennas. EMRPI can theorize that the workers doing these repairs were exposed to radio frequency radiation exposures that exceeded the FCC general population limits.

See attached Exhibits photographs of the rooftop site in question: AT&T Mobility Sign with Phone Number; Recent Roof Repair in Front of Antennas; Accessible AT&T Mobility and MetroPCS Antennas; Spatially Averaged Measurements in Front of AT&T Mobility Antennas; and Spatially Averaged Measurements in Front of MetroPCS Antennas.

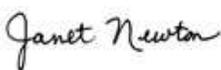
EMRPI urges the FCC Enforcement Bureau to investigate the type and veracity of the information provided to those who call the phone numbers provided by the license holders for this rooftop site.

The NOV EB-10-PA-0156 states, in part: "Here the general population limits apply because there is no evidence that MetroPCS ensured that persons working on the rooftop were aware of their potential for exposure. The only warning sign regarding RF radiation exposure was on the rear of the antenna and was not visible to persons standing in front of the antenna on the roof at 216-17 90<sup>th</sup> Avenue, which is where MPE limits were exceeded."

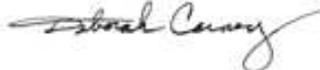
Further, this Notice of Violation states, in part: "The Philadelphia Office contacted MetroPCS after the inspection and MetroPCS reported that it has brought station WQGA731 into compliance with the general population RF radiation MPE limits. Consequently, we do not require, pursuant to 47 C.F.R. 1.1307 (d), that an EA be submitted as part of the required written statement. However, if subsequently we determine that WQGA731 still exceeds the MPE limits, an EA may be requested from MetroPCS and further sanctions may be issued."

It appears an Environmental Assessment is warranted for the rooftop site in question given that RF radiation exposure levels appear still to be in violation of the FCC RF MPE limits.

Sincerely,



Janet Newton  
President



Deborah Carney, JD  
Vice President



Diana E. Warren  
Director

Cc via E-mail or Facsimile Transmission:

U.S. Senator Charles Schumer  
U.S. Senator Kristin Gillibrand  
U. S. Congressman Gregory Meeks, New York District 6  
US OSHA New York State via Facsimile Transmission

Governor Andrew Cuomo via Facsimile Transmission  
New York State Department of Labor New York City District Office via Facsimile  
Transmission  
New York State Senator Tony Avella, District 11

New York State Assemblyman William Scarborough, District 29  
New York State Plan for Public Employee Safety and Health (PESH) via Facsimile  
Transmission

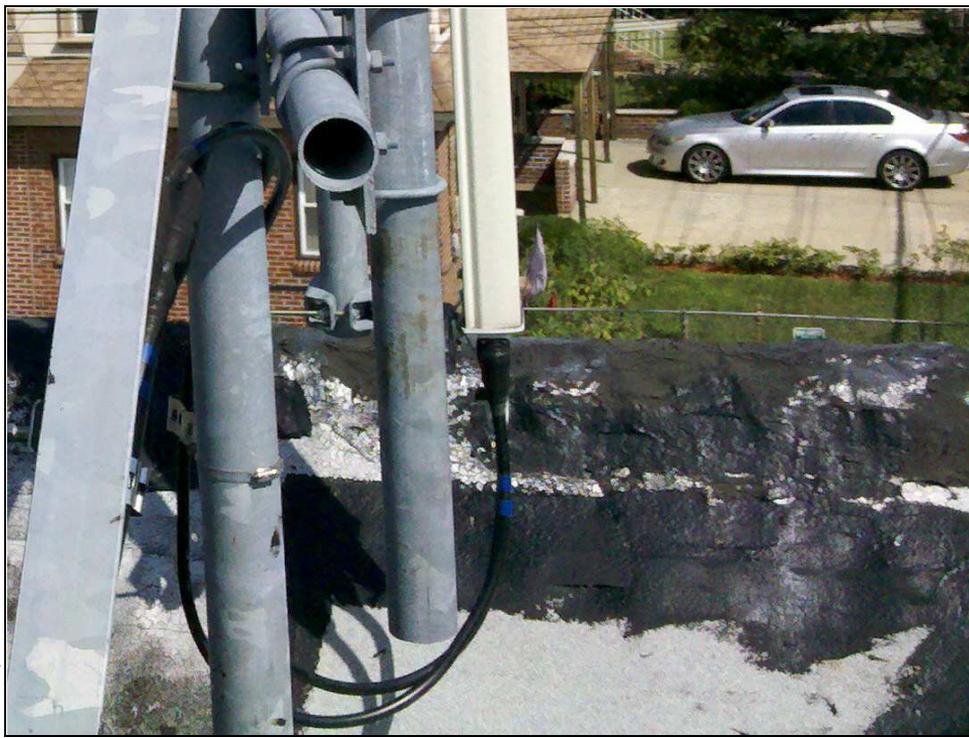
New York City Mayor Michael Bloomberg via Facsimile Transmission  
New York City Councilman Mark Weprin, District 23  
New York City Director of Department of City Planning Amanda Burden via Facsimile  
Transmission

**Exhibits**

**AT&T Mobility Signs With Phone Number**



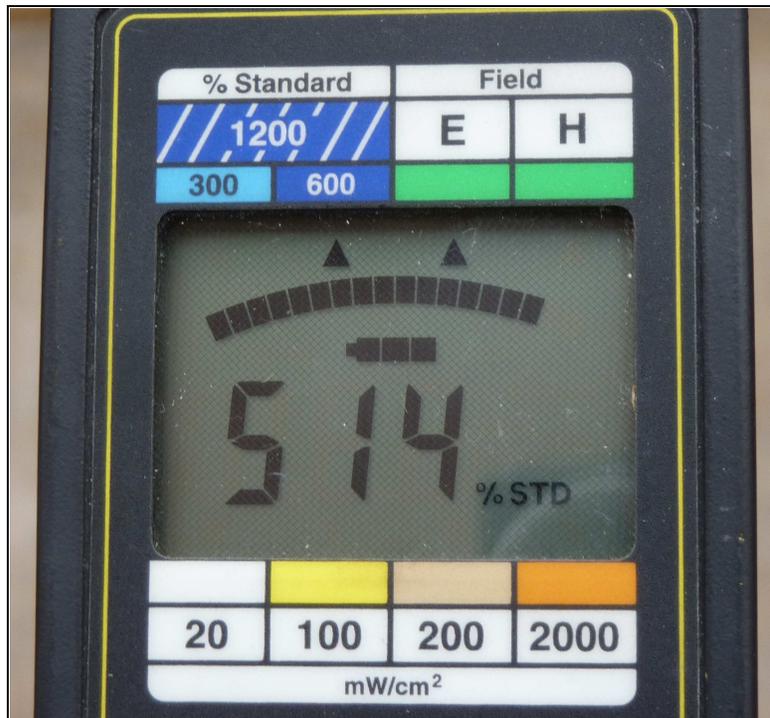
**Recent Roof Repair in Front of Antennas**



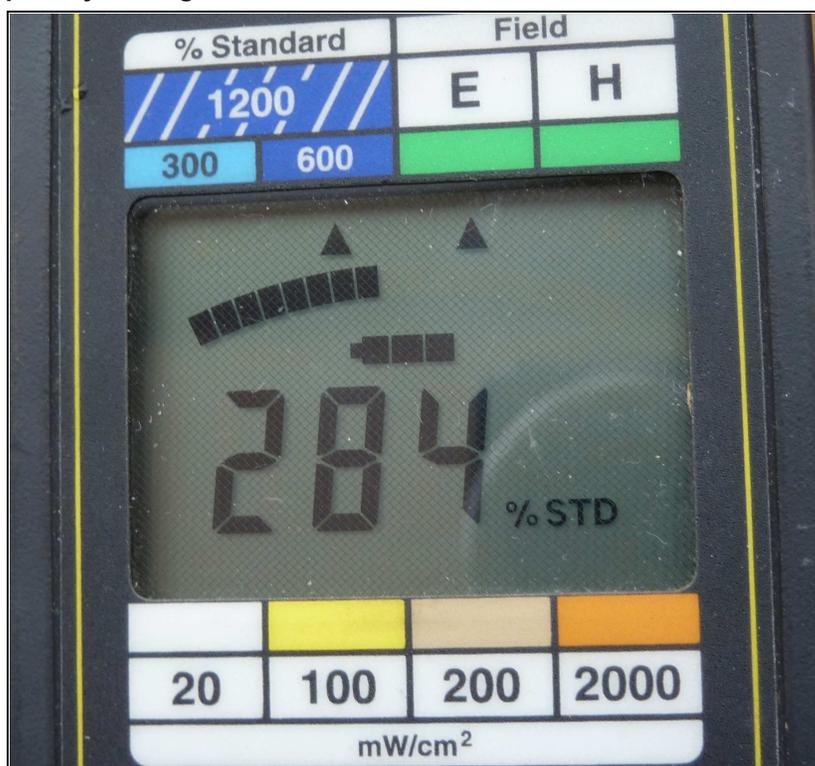
Accessible AT&T Mobility & Metro PCS Antennas



Spatially Averaged Measurement in Front of AT&T Mobility Antenna



**Spatially Averaged Measurement in Front of Metro PCS Antennas**



13. The dates the 101 EMRPI Complaints were filed are as follows:

<b>Date Filed</b>	<b>Complaint #s</b>		<b>Dated Filed</b>	<b>Complaint #s</b>
12/9/2011	EMR001		1/30/2013	EMR064-068
2/27/2012	EMR002-021		1/31/2013	EMR069-070
3/20/2012	EMR023		2/1/2013	EMR071-073
3/19/2012	EMR024		2/12/2013	EMR074-076
5/17/2012	EMR022		2/13/2013	EMR077
5/17/2012	EMR025-040		2/14/2012	EMR078-080
6/30/2012	EMR041-045		2/15/2013	EMR081-082
10/30/2012	EMR046-053		2/18/2013	EMR083-085
10/31/2012	EMR054-057		2/19/2013	EMR086-089
11/1/2012	EMR058-060		2/20/2013	EMR090-092
11/2/2012	EMR061-063		2/21/2013	EMR093-098
2/15/2013	EMR081-082		2/22/2013	EMR099-101

14. The 101 EMRPI Complaints locations range over most of the United States as shown in the chart below:

**EMR Complaints 001-101 by State**

State	# by State	Phoned Complaints	Complaints FAXed to State and Local Officials	Complaints E-Mailed to State and Local Officials
Alabama	1			EMR052
California	3			EMR 065, 066, 067
Colorado	3	March 2012 EMR024 Reported by phone	EMR024, 025	EMR092
Connecticut	8		EMR005,006,007	EMR074, 075,076,077,078
District of Columbia	3		EMR019,020,021	
Delaware	2		EMR012	EMR082
Florida	4		EMR008,009, 010	EMR079
Georgia	3		EMR016, 017	EMR073
Illinois	4		EMR018, 036, 037	EMR057
Indiana	1			EMR068
Kentucky	3			EMR047, 048, 049
Maine	3			EMR051, 069, 070
Maryland	5		EMR028	EMR095, 096, 097, 098
Massachusetts	7	March 2012 EMR023 Reported by phone	EMR022, 023, 026, 027	EMR088, 089, 090
Missouri	5		EMR013, 014, 015	EMR093, 094
New Hampshire	1			EMR050
New Jersey	7		EMR002, 003, 004	EMR083, 084, 085, 086
New York	12		EMR001	EMR053, 054, 055, 058, 059, 060, 061, 062, 063, 064, 100
Pennsylvania	4			EMR044, 045, 046*, 071
Rhode Island	3		EMR011	EMR080, 081
Tennessee	4		EMR029, 030, 031	EMR091
Texas	5		EMR032, 033, 034, 035	EMR099
Virginia	4			EMR042, 042, 043, 072
Washington	6		EMR038, 039, 040	EMR056, 087, 101

## VI. FCC HAS IMPOSED NO FORFEITURES AGAINST ANY OF THE CARRIERS WHO ARE THE SUBJECTS OF THE MORE THAN ONE HUNDRED EMRPI COMPLAINTS

15. EMRPI knows that no monetary penalties have been levied because EMRPI has filed FOIA requests that should result in documentation of any enforcement actions that have taken place.

16. EMRPI first asked in FOIA No. 2012-093: :

1. How many FCC-licensed wireless antenna sites exist now?
2. How many wireless antenna site complaints of radiation over the limits have been filed?
3. How many site visits has the FCC made to wireless antenna sites that have had complaints lodged?
4. How many times has the FCC cited a wireless antenna site operator for exceeding radiation levels?

17. The FCC responded on March 14, 2012. The letter from Nancy Stevenson, Deputy Chief of the Consumer Policy Division, Consumer & Governmental Affairs Bureau is attached as **Exhibit B**. The questions were answered as follows.

*How many wireless antenna site complaints of radiation over the limits have been filed?* In the field, since 1/1/2000, there have been 155 complaints concerning radiofrequency radiation (“RFR”) filed. These were not specifically “wireless antenna site” complaints but complaints of radio frequency radiation which would be coming from an antenna site. The antenna site could include broadcast licensees, wireless licensees, etc. Often it would include various types of antennas, as the FCC RFR rules cover all types of its licensees.

*How many site visits has the FCC made to wireless antenna sites that have had complaints lodged?* In response to the complaints concerning RFR referenced above, the Field has conducted 93 investigations at sites that include antennas operated by licensees and permittees that are regulated by the FCC.

*How many times has the FCC cited a wireless antenna site operator for exceeding radiation levels?* None. “The commission has determined that responsibilities pertaining to RF electromagnetic fields belong with licensees

and applicants, rather than site owners.”...The Commission has released 15 different sanctions against licensees for violations of the RFR rules, and resolved subsequent appeals of those sanctions....

18. None of the complaints or documents filed by EMRPI showed up in this response.

19. On April 1, 2012, EMRPI filed a new FOIA request specifically asking for information on FCC enforcement on the EMRPI Complaints 1-21. FOIA Control No. 2012-240. Rebecca Dorch, Regional Director Western Region Enforcement Bureau responded on April 25, 2012 by saying no information would be provided until the FCC “investigation” was complete. **Exhibit D** Now, almost a full year later, the FCC has provided no information on these complaints.

20. No citations have been issued against any wireless carriers. The evidence shows that that FCC does whatever it can to find a Complaint area in compliance even though EMRPI’s investigation demonstrated that it is not.

## **VII. ADDITIONAL FCC CORRESPONDENCE GIVES EVIDENCE OF NON-ENFORCEMENT AT MISSOURI EMR COMPLAINT SITES 013 and 014**

21. **Exhibit D** provides:

2/27/2012 - Letters to FCC EB - EMR Complaints 013, 014, 015 in Missouri

5/23/2012 - Letter from FCC EB Chief of Staff Michael Carowitz to Senator Claire McCaskill stating that the RF emissions were below the FCC limits but giving no data on the measurements.

5/31/2012 - Letter of Senator McCaskill to EMRPI conveying 5/23/2012 FCC EB letter

7/24/2012 - Letter from EMRPI to FCC EB Chief P. Michele Ellison. Includes new measurements at EMR Complaints 013 and 014 sites showing readings still over FCC RF Guidelines

22. **Exhibit E** provides the record of July 2012 E-mail Correspondence and the 7/11/2012 EMRPI letter transmitted via e-mail between FCC EB Philadelphia Northeast Region Office staffperson David Dombroski and EMRPI President Janet Newton about EB site visits to EMR Complaint 012 at Tarryville, Delaware and Complaint 044 at Philadelphia rooftop antenna sites. The 7/11/2012 EMRPI letter responds to Mr. Dombrowski’s request to described the RF measurement protocol carried out by the EMRPI technician at these sites.

23. On 12/4/2012 Matthew Urick at FCC Philadelphia Northeast Region Enforcement Bureau phoned EMRPI President Janet Newton about Complaint EMR 046 in Philadelphia that had been e-mailed to EB Chief Ellison on 10/30/2012. Mr. Urick reported evaluating this site on 11/14/2012. He stated that the site may exceed general public limits but has a locked door at the site and signage on the access door.

## VIII. CONCLUSION

### 24. The FCC is not enforcing FCC RF Guidelines.

The FCC directs little effort to protecting Rooftop Workers and the public from RF Radiation emissions. The FCC relies almost entirely on a licensee honor system (of self-reporting compliance) to ensure that wireless carriers comply with FCC RF Guidelines.

25. According to the FCC website – FCC Encyclopedia: FCC Initiated

Investigations at: [www.fcc.gov/encyclopedia/enforcement-prime](http://www.fcc.gov/encyclopedia/enforcement-prime)

The Bureau generally opens an investigation after receiving information about a potential violation from any number of sources, and gathers the information it needs through a Letter of Inquiry, or LOI. The LOI requires the recipient to answer questions and produce documents relevant to evaluating whether a violation has occurred, and if so, the nature and scope.

Especially in filed investigations, the Bureau [EB] may also gather information through physical inspection of facilities. Where necessary, the Bureau [EB] also has the power to compel the production of information and testimony through administrative subpoenas.

The existence of an investigation is generally non-public until the Commission takes enforcement action.

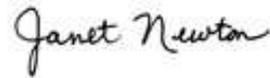
26. The EMRPI complaint letters sent to the FCC EB document actual violations, not “potential” violations. The FCC has had more than a year since December 2011 to act upon and resolve the violations reported by EMRPI, and to publicly acknowledge enforcement actions.

27. In reality, there are few routine enforcement visits by FCC personnel, especially in comparison to the hundreds of thousands of wireless antenna sites nationwide.
28. There are no legally-required filings to the FCC of actual RF power levels by wireless carrier personnel.
29. The FCC's few reported enforcement proceedings often show that carriers can and do exceed FCC RF Guidelines by the simple device of increasing antenna power output.
30. There is obviously strong economic incentive for wireless carriers and their employees to conceal their antenna's out-of-compliance RF power output.
31. There is no risk that the public is able to determine actual antenna RF power output levels. The public does not have access to multi-thousands of dollars RF measuring equipment (calibrated NARDA SRM-3000 used by FCC EB staff) to evaluate antenna sites in close proximity to their workplaces and homes.
32. As a result, by powering up their antennas, wireless carrier personnel can easily increase the service coverage areas for existing antennas without the need to install expensive additional equipment.
33. Until the FCC punishes the many violators with monetary fines that actually deter noncompliance, compliance will continue to be an illusion.
34. Rooftop workers and the public will continue to be overexposed and injured at the many sites where RF emissions exceed the FCC RFF Guidelines.
35. Since the FCC appears loath to enforce FCC RF Guidelines violations, the public should be given easy access to the facts so that they can put pressure on their government to protect them:

- Wireless carriers should be required to file publicly-available certified annual (or more frequent) reports setting forth actual measured RF power levels for each of their licensed wireless transmitters.
- The reports should be signed by the responsible technician and his or her supervisor under penalty of perjury.
- These RF compliance reports should then be made available on the internet for review by individual citizens, environmental protection organizations, and local governments.
- Violators should be punished.
- Private citizens should be given the right to bring lawsuits against Violators without any FCC claim of preemption.

Respectfully submitted,

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