



Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

CGB

March 14, 2012

Deborah Carney, VP
EM Radiation Policy Institute
21789 Cabrini Blvd
Golden, CO 80401

FOIA No. 2012-093

Dear Ms. Carney:

This letter responds to your recent Freedom of Information Act (FOIA) request received by the Federal Communications Commission (FCC or Commission) and assigned to the Consumer & Governmental Affairs (CGB), Enforcement (EB) and Wireless Telecommunication (WTB) Bureaus. Your request seeks the following:

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?

Because of the need to consult with other offices within the Commission to prepare a response to your request, we extended the time for responding to your FOIA request. We appreciate your patience and understanding in this matter.

Arthur Scrutchins of CGB contacted you to clarify the scope of your request and to discuss estimated processing fees. You narrowed your request to seek approximately fifty complaints concerning antenna related issues.

Mr. Scrutchins conducted a search of the databases containing informal complaints. According to the Commission's Records Control Schedule for Informal Complaints ("Records Control Schedule"), the Commission is not required to maintain informal complaints and related correspondence for more than three years after the case is closed. *See N1-173-07-1, FCC Disposition Authority*. Therefore, all complaint records prior to January 1, 2008, have been purged pursuant to the Records Control Schedule. Mr. Scrutchins found forty-six responsive documents. Copies of the responsive documents are enclosed. Mr. Scrutchins redacted all personal identifying information relating to the individuals who submitted or are named in the enclosed complaints or inquiries based on Exemption 6 of FOIA, which permits agencies not to disclose files that would clearly invade personal privacy.¹ Mr. Scrutchins also redacted some FCC employee names

¹ 5 U.S.C. § 552 (b)(6); *see also* 47 C.F.R. § 0.457(f).

based on Exemption 2 of FOIA, which permits agencies not to disclose internal personnel rules and practices.²

EB provides the information noted below in response to your FOIA request.

- 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 with site owners.” See *Infinity Broadcasting of Florida*, Order on Review, 24 FCC Rcd. 4270, 4271 (2009). The Commission has released 15 different sanctions against licensees for violations of the RFR rules, and resolved subsequent appeals of those sanctions, but that’s not what she is asking for.

If you have any further questions concerning the above please contact Margaret Egler, Western Region Counsel, Enforcement Bureau at 858-496-5115.

Please be advised that the FCC receives many complaints and comments that do not involve violations of the Communications Act or any FCC rule or order. Thus, the existence of a complaint filed against a particular business entity does not necessarily indicate any wrongdoing by the company.

FOIA and FCC rules require the FCC to charge requesters for time spent searching for and reviewing responsive documents, and for copying them.³ Based on your classification as a “commercial” requester, the FCC charges you the full cost of searching for, reviewing and duplicating the records you seek.⁴ The total charge for processing your FOIA request is \$147.12. The search and review was conducted by a GS-14 employee for two hours at an hourly rate of \$68.56. The fee for duplication of documents being furnished to you is \$10.00 (100 pages x \$0.10 per page).⁵ The Financial Operations Division, Office of Managing Director, Federal Communications Commission, will send you a bill for this amount soon. Interest will be assessed on the fee owed if it is not paid within 30 days of the date of the bill.⁶

² 5 U.S.C. § 552(b)(2); see also 47 C.F.R. § 0.457(b).

³ 5 U.S.C. § 552(a)(4)(A)(i); 47 C.F.R. § 0.470.

⁴ 47 C.F.R. § 0.470(a)(1).

⁵ 47 C.F.R. § 0.465(c)(2)

⁶ 47 C.F.R. § 0.468.

If you think this response denies your FOIA request, you may file an application for review of this decision with the FCC's Office of the General Counsel within 30 days.⁷ Both the application and envelope containing it must be marked "Review of Freedom of Information Action" and the application should refer to FOIA Control No. 2012-093.

Sincerely,



Nancy Stevenson
Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau

Enclosures

⁷ 47 C.F.R. § 0.461(j).