



Federal Communications Commission  
Washington, D.C. 20554

December 11, 2001

James R. Hobson  
Miller & Van Eaton, P.L.L.C.  
1155 Connecticut Ave., NW  
Suite 1000  
Washington, DC 20036

Dear Mr. Hobson:

This letter dismisses the Petition for Inquiry filed by EMR Network on September 25, 2001, in which you request that the Commission initiate a proceeding to gather information and opinion about the need to revise the FCC's regulations concerning the environmental effects of radiofrequency (RF) radiation. The petition further requests that we use the information obtained in such an inquiry to revisit the guidelines we currently use for evaluating human exposure to RF emissions from FCC-regulated transmitters.

The petition maintains that our current regulations and guidelines are based on short-term, thermal effects of RF energy and claims that the Commission does not know whether chronic exposure or low-level "non-thermal" effects present a human health hazard. The petition primarily relies on the age of our exposure limits and the research they are based on, and it cites studies that have been published over the last several years that purport to demonstrate a link between low-level RF exposure and a variety of biological effects. The petition argues that federal health and safety agencies should participate in the requested inquiry.

The Commission's rules on RF exposure have been adopted pursuant to provisions of the National Environmental Policy Act (NEPA) which require us to consider the impact of Commission actions on the quality of the human environment. Our rules require that FCC-regulated transmitters and facilities comply with our exposure limits or file an Environmental Assessment. (See 47 CFR §§1.1307(b), 1.1310, 2.1091 and 2.1093.)

While our staff monitors developments in the field of health research on these issues, it is well-established that the FCC is not an expert agency in health-related issues. Rather, we rely on other agencies, such as the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA), in developing the health and safety related policies that we enforce. The Commission's RF safety limits are based on the recommendations and advice of federal agencies and groups with expertise in health-related areas and in standards setting. Our current exposure guidelines are derived from criteria established by the National Council on Radiation Protection and Measurements (NCRP) and the Institute of Electrical and Electronics Engineers (IEEE). In

formulating these guidelines for our rules we relied heavily on the advice and comments of the Federal health and safety agencies, including the EPA and the FDA.

If efforts to revise or update our RF safety limits based on research in the field or on other factors are appropriate, that determination should be made by these or other federal agencies with primary expertise in and responsibility for ensuring health and safety, and should not be made in the first instance by the FCC. Accordingly, any proceeding or inquiry should be initiated by and maintained under the auspices of such agency or agencies, and the determination of whether such an inquiry or proceeding is appropriate at this time should also be made by such agency or agencies. Accordingly, our dismissal of your petition should not be construed as a determination on the substantive merits of the matters it raises.

We do note that earlier this year, the Second Circuit Court of Appeals upheld the FCC's RF safety rules and declined to agree with your arguments that our exposure guidelines are not sufficiently restrictive. *Cellular Phone Task Force v. FCC*, 205 F.3d 82 (2d Cir. 2000), cert. denied, 531 U.S. 1070 (2001). As you know, the Supreme Court declined to review the case. *Id.*

For these reasons, pursuant to delegated authority under Section 0.241 of the Commission's rules (47 CFR § 0.241), the subject petition for inquiry is dismissed.

Sincerely,



Bruce A. Franca  
Acting Chief  
Office of Engineering & Technology