

11,000 Pages of Evidence Filed in Landmark 5G Case Against the FCC, Hearing Set for Jan. 25

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For decades, the public has been told there is no evidence that wireless technology is harmful. Claims of 5G harms have been dismissed as “conspiracy theory.”

A landmark case against the Federal Communication Commission (FCC) contests these statements and asserts that the harms are proven and that an epidemic of sickness exists.

Recently, the leading environmental and health advocacy organizations that filed the case submitted 11,000 pages of evidence in support of their claims. (Links to the evidence are provided below).

The case is being heard by the U.S. Courts of Appeals of the DC Circuit. Oral arguments are scheduled for Jan. 25 at 9:30 a.m. EST. The public can listen to it on YouTube.

In December 2019, the FCC closed an inquiry it initiated in 2013 in which the commission asked the public to submit comments to the inquiry’s docket as to whether or not the FCC should review its 1996 health guidelines for Radio Frequency (RF) radiation emitted by wireless devices and infrastructure.

About 2,000 comments — an exceptionally large number — were filed with the FCC. These comments were filed by scientists and science organizations, such as the BioInitiative and EMF Scientist, by doctors and medical organizations, by cities, such as Boston and Philadelphia, and by hundreds of individuals including parents of children who were injured by this technology. The comments referenced thousands of studies showing clear and profound evidence of harm.

Nevertheless, the FCC order, published on Dec. 4, 2019, concluded there is no evidence that wireless technology causes harm, and no need to review the guidelines. The FCC decision didn’t provide an analysis of the science, disregarded the evidence of sickness and didn’t defend its decision with evidence.

Consequently, two lawsuits were filed against the FCC. One by the Environmental Health Trust (EHT) and Consumers for Safe Cell Phones, and one by the Children’s Health Defense (CHD) and additional petitioners including Prof. David Carpenter

who is the co-editor of the BioInitiative Report, the most comprehensive review of the science by 29 leading scientists and public health experts.

CHD's case was also joined by physicians who see the sickness in their clinics and by parents of children who have become sick with radiation sickness. One petitioner is a mother whose son died from a glioblastoma, the same brain tumor that killed Beau Biden, President Joe Biden's son.

The petitioners of both the EHT and CHD cases filed joint briefs. They argued that, considering the overwhelming evidence that was submitted to the FCC's docket, and since the FCC's order lacked evidence of reasoned decision-making, the FCC violated the Administrative Procedures Act and that the commission's decision is capricious, arbitrary, abuse of discretion and not evidence-based.

The petitioners also argued that the FCC violated the National Environmental Policy Act (NEPA) because the Agency failed to consider the environmental impacts of its decision, and didn't comply with the 1996 Telecommunications Act (TCA) because it failed to consider the impact of its decision on public health and safety.

The Opening Brief was filed by petitioners on July 29, 2020. The FCC filed its brief on Sept. 22, 2020; and the petitioners filed their Reply Brief on Oct. 21, 2020.

The court has ordered that in the oral arguments scheduled for Jan. 25, only one attorney will present the case for all the petitioners. It allocated 10 minutes for oral arguments for the petitioners as well as for the FCC.

EHT and CHD have agreed to have CHD's attorney, Scott McCullough, former Assistant Texas Attorney General and a seasoned telecom and administrative law attorney, present the petitioners' joint argument.

The three-judge panel in the U.S. Court of Appeals for the District of Columbia Circuit that presides over the case includes the Honorable Karen Henderson, Patricia Millett and Robert Wilkins.

EHT is represented by attorney Edward B. Myers, who intervened in the successful case against the FCC with the Natural Resources Defense Council (NRDC) and several Native American tribes when the court upheld the relevance of NEPA in FCC proceedings.

The NRDC filed an amicus brief in the case. An amicus brief was also filed by the Building Biology Institute, and by an executive from the telecom industry, Joe Sandri. Sandri's brief included a statement of Dr. Linda Birenbaum, director of the National Institute of Environmental and Health Services (NIEHS) from 2009-2019, stating that the evidence of carcinogenic effects of wireless technology has been established.

The evidence referenced in the case shows profound harmful effects and widespread sickness from wireless technology. The evidence (called the "Joint Appendix") was recently filed and includes 11,000 pages of scientific and human evidence, yet, it is only the tip of the iceberg.

In this type of case only evidence that was submitted to the FCC's docket can be used. There is much evidence that wasn't submitted.

The Joint Appendix contains 440 documents. The table of contents alone is 54 pages. Because of the sheer volume of evidence, it had to be divided into 27 volumes. The court requires seven sets of the Joint Appendix, and therefore, 189 binders each containing approximately 500 pages were shipped to the court. The printing and shipping costs for the Joint Appendix amounted to more than \$15,000.

The Joint Appendix includes references to thousands of peer-reviewed scientific studies showing DNA damage, reproductive harm, neurological effects such as ADHD, and radiation sickness, which seems to be the most widespread manifestation of wireless harms.

The evidence shows effects on the brain, including impaired blood flow and damage to the blood-brain barrier, cognitive and memory problems and effects on sleep, melatonin production and mitochondrial damage. Causal mechanism of harm was also established. Oxidative Stress, a mechanism of harm that can lead to cancer, non-cancer conditions and DNA damage, was found in 203 out of 225 studies.

Unlike industry statements, both the majority of the studies and the weight of the evidence leave no doubt that the harms are proven.

The Joint Appendix also includes reports of leading expert scientists such as the BioInitiative Report; opinions of medical associations such as the California Medical Association and the American Academy of Pediatrics; appeals of leading expert scientists; U.S. government agencies' reports (U.S. Access Board, NIBS, the Department of Interior, U.S. Navy, the Military, U.S. Environmental Protection Agency; government studies including the recent National Toxicology Program

(NTP), a \$30 million study that found clear evidence of cancer and DNA damage; as well as acknowledgement of harm by U.S. government agencies and scientists contradicting the FCC position.

In December 2020, the National Academy of Sciences, Engineering and Medicine (NAS) issued a report determining that the most likely cause of the symptoms suffered by the U.S. diplomats in Cuba and China is Radio-Frequency (wireless) weapons. The NAS was appointed by the Department of State. The report references much of the same evidence filed in the case against the FCC.

The NAS invited Prof. Beatrice Golomb, M.D., Ph.D., to present to the committee. Golomb's 2018 paper was the first to show that pulsed RF is the most likely explanation for the diplomats' symptoms. She pointed out the diplomats likely suffer from the same condition experienced by growing segments of the population from wireless technology known as radiation sickness/ microwave sickness/ electrosensitivity. Golomb's paper was referenced in the case.

Hundreds of testimonials of people who have become sick like the diplomats and statements of doctors were filed to the FCC's docket. The petitioners argued that the FCC guidelines that deny sickness are being used to deny accommodation for the injured, in violation of the Americans with Disabilities Act.

Nevertheless, the FCC denied the evidence, the sickness and did not address the accommodation issue. For those who have been injured this case has profound consequences.

"Environmental Health Trust has worked for over a decade to protect the public from radiofrequency radiation, testified to Congress and published critical research on why children are more vulnerable," said Devra Davis Ph.D., MPH, president and founder of Environmental Health Trust. "The FCC has ignored our extensive submissions to the FCC over the years which clearly document harm. As the legacies of lead, asbestos, and tobacco teach us, this issue deserves the immediate attention of our federal government in order to protect our children's healthy future."

"This is a landmark case and it is of the utmost importance to the Children's Health Defense which works relentlessly to eliminate the epidemic of sickness in children," said the organization's chairman, Robert F. Kennedy Jr. "The American public has been poorly served by the FCC. The FCC's guidelines are decades-old and are based on scientific assumptions that were proven false. Its failure and disregard of public health is evident in the growing and widespread conditions involving brain damage, learning disabilities, and a host of complex neurological syndromes."

Kennedy added: “The overwhelming experimental and human evidence which the FCC has ignored leaves no doubt that wireless technology is a major contributory factor to this epidemic. The FCC has shown that its chief interest is protecting the telecom industry and maximizing its profits, and its position as put forward in its brief is simply indefensible.”

The oral arguments are the final stage of this case. After the hearing, all that will be left is to wait for the court’s decision, said Dafna Tachover, director of CHD’s Stop 5G and Wireless Harms Project, who has initiated and led the case for CHD. “We have invested significant resources in this case and all of us worked very hard for the past 13 months. We believe that we have a strong case. Now it is up to the court. As William Wilberforce, who fought slavery said, ‘You may choose to look the other way, but you can never say again that you didn’t know.’”