



NEWS

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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

FOR IMMEDIATE RELEASE:
April 12, 2006

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FCC RESOLVES PETITION RELATED TO THE CONSTRUCTION OF COMMUNICATIONS TOWERS IN THE GULF COAST REGION

Washington, D.C. – The Federal Communications Commission (FCC) has adopted a Memorandum Opinion and Order (Order) denying in part and dismissing in part a petition filed by the Forest Conservation Council, the American Bird Conservancy, and Friends of the Earth (petitioners) alleging that the construction of communication towers in the Gulf Coast region violates various environmental statutes.

In their August 2002 petition, the petitioners claimed that the FCC's policies regarding the construction of communication towers in the Gulf Coast region violated several federal environmental statutes, including the National Environmental Policy Act of 1969, the Endangered Species Act, and the Migratory Bird Treaty Act. The petitioners requested the FCC take several actions in order to remedy these alleged violations including: (1) requiring tower owners to prepare environmental assessments for 5,797 previously constructed towers; (2) requiring tower owners to supplement environmental assessments submitted for 96 other previously constructed towers; (3) preparing an Environmental Impact Statement evaluating the effects of all antenna structure registrations in the Gulf Coast region; (4) initiating a formal consultation with the U.S. Fish and Wildlife Service regarding the effects of these antenna structures on threatened and endangered species; (5) instituting a moratorium on registration of any new communications towers in the Gulf Coast region until environmental review is completed; (6) implementing new public participation procedures; and (7) adopting general measures to reduce or eliminate intentional or unintentional killings of migratory birds.

In today's Order, the FCC found that petitioners had failed to justify their request for a moratorium on tower construction in the Gulf Coast region under the applicable legal standard, and that such a moratorium would harm the public interest by hindering the availability of commercial and public safety communications in the region. With respect to the request for submission of new or supplemental environmental assessments of nearly 5,900 towers, the FCC found that the petitioners failed to make any specific allegations relating to individual towers as required under the FCC's rules. The FCC denied the petitioners' remaining claims as unsupported by the record before it, but noted that many of the same issues are being considered in a separate FCC rulemaking proceeding (WT Docket No. 03-187). The FCC indicated that it intends to issue a Notice of Proposed Rulemaking in this proceeding in the near future examining the effects of communications towers on migratory birds.

Action by the Commission on April 11, 2006, by Memorandum Opinion and Order. Chairman Martin and Commissioners Adelstein and Tate, with Commissioner Copps concurring and dissenting in part. Separate statements issued by Commissioners Copps and Adelstein.

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