

## [TR Daily - Archive, FCC Urged to Refresh RF Standards Dockets, \(Dec. 1, 2021\)](#)

TR Daily - Archive

[Click to open document in a browser](#)

The Environmental Health Trust (EHT) has asked the FCC to reopen a proceeding on its RF standards rules “and allow for the record to be refreshed with new scientific evidence published” since the FCC’s 2019 decision to terminate a notice of inquiry. Dozens of other scientists and groups want the FCC to reopen one or more dockets.

EHT was a petitioner in a case decided in August in the U.S. Court of Appeals for the District of Columbia Circuit. In a 2-1 ruling, the court remanded to the FCC the case, ordering the agency “to provide a reasoned explanation for its determination that its guidelines adequately protect against harmful effects of exposure to radiofrequency radiation unrelated to cancer” ([TR Daily, Aug. 13](#)).

The court said the FCC “must, in particular, (i) provide a reasoned explanation for its decision to retain its testing procedures for determining whether cell phones and other portable electronic devices comply with its guidelines, (ii) address the impacts of RF radiation on children, the health implications of long-term exposure to RF radiation, the ubiquity of wireless devices, and other technological developments that have occurred since the Commission last updated its guidelines, and (iii) address the impacts of RF radiation on the environment.”

The opinion in *Environmental Health Trust et al. v. FCC* (consolidated cases beginning at 20-1025) addressed a 2019 decision in which the FCC resolved an NOI adopted in 2013 ([TR Daily, March 29, 2013](#)) and also adopted a second report and order, notice of proposed rulemaking, and memorandum opinion and order in ET dockets 03-137, 13-84, and 19-226 ([TR Daily, Dec. 4, 2019](#)). The proceeding marked the first review of the agency’s RF standards since they were adopted in 1996.

In its filing posted today in ET docket 13-84, EHT noted that “nearly nine years has elapsed from the opening of the notice of inquiry. The date of the last scientific evidence referenced in the Commission’s final order is May 2019, two and one-half years ago. Over the more than eight years since the notice of inquiry began, a tremendous amount of new peer-reviewed scientific research has been published on the harmful non-thermal biological and environmental effects of RF radiation exposure at levels below the current Commission emissions guidelines. Therefore, in order to carry out the Circuit Court’s mandate, the Commission cannot plausibly, fairly, or lawfully merely reissue a fuller explanation after simply reviewing the existing record. The Commission has no choice but to start anew and take ‘new agency action.’ The Commission must reopen the proceeding and allow further comment on the remanded issues.”

EHT added that in just “the two years since the Commission’s final order was issued, many relevant and critical new published research studies show harmful effects on both public health and the environment from chronic repeated exposures to currently permitted levels of exposure. The Commission and its sister agencies must analyze this vital new information, as well as hear from leading researchers and scientists *before* the Commission issues a properly reasoned decision on the matters remanded to it by the Circuit Court.”

EHT added that “the Commission should not limit the issues to only those remanded by the Circuit Court. Specifically, new information on cancer risks should also be received and considered. Although the Court held the *Order* itself contained an adequate explanation with regard to cancer risks, it did so only because of the extremely ‘highly deferential standard of review’ the Court held applies to a decision on a notice of inquiry, which the Court noted was ‘akin to a refusal to initiate a rulemaking.’ ... The panel majority was not very impressed with the ‘cancer’ explanation, but it managed to just clear the bar. ... The undersigned believe that the

newest information and analysis provides powerful arguments undercutting the cancer related finding, and the Commission should consider it as well as part of the remand.”

EHT submitted, with its request, letters from a myriad of scientists and public health experts and groups asking the FCC to reopen RF proceedings to refresh its record before acting on the court remand.

“As authors of numerous publications and reports in the field we urge that the FCC ensure a robust review of the latest science and expert recommendations in the FCC’s upcoming reexamination of its Inquiry on human exposure limits for wireless radiation,” said one letter signed by more than 30 experts. “The major scientific developments of the last two years must be included in the FCC review—especially in the new 5G environment where wireless is ubiquitous.”

The FCC declined to comment on the EHT filing. —Paul Kirby, paul.kirby@wolterskluwer.com

TelecomRegulation: FCC FederalNews Courts WirelessDeployment