

Susan Foster

PO Box 1444
Lyons, CO 80540
susan.foster04@gmail.com

April 17, 2023

Dear Friends & Colleagues,

Just over a year ago the FCC released a Notice of Inquiry inviting comments on the issue of Diversity, Equity & Inclusion (“DEI”), a theme that has been prominent throughout the federal government and must be addressed by every federal agency and commission. We saw this as an opportunity to let the FCC know that a significant swath of the population has become disabled as a result of exposure to ubiquitous electromagnetic radiation from wireless devices and the infrastructure that services them.

As a team and with many of you signing on under the umbrella of The Advocates for the EMS Disabled, we submitted a white paper to the FCC on May 16, 2022 "Eliminating Digital Discrimination for the EMS Disabled" when public comments were invited on Diversity, Equity & Inclusion. We stated that if the Commission is sincere about achieving “diversity, equity and inclusion” it must recognize this specific problem and take the kind of special measures to address it that are within its regulatory remit.

On June 30, 2022, we submitted "Reply Comments of Advocates for the EMS Disabled." We showed that the majority of public commenters agreed with our position and they, too, asked the FCC for recognition of EMS, accommodation for those with Electromagnetic Sensitivities, and a priority of fiber to the premises.

The Advocates for the EMS Disabled made two related points in their Reply Comments. First, the Commission should always prioritize “to the premise” fiber solutions and rely on wireless only when wired is technically or economically infeasible or the main purpose is mobility. Second, if the Commission is sincere about achieving “diversity, equity and inclusion” it must recognize the specific and profoundly deleterious effects of RFR on the EMS Disabled and take immediate, full force-measures within its regulatory remit to address and solve this growing plight. We stated there must be an allowance for RF-free “safe zones” in public spaces and buildings to ensure inclusion in public life. The Commission can establish such zones, or at least allow local and state authorities to do so without threat or fear of litigation on preemption grounds. To fail to seek accommodation for this growing population of EMS Disabled is to facilitate the direct opposite of the stated goal of achieving diversity, equity and inclusion.

The FCC completely ignored our legitimate and well-substantiated requests for the EMS disabled in its subsequent Notice of Proposed Rulemaking ("NPRM") on DEI and digital discrimination. In fact, the NPRM even questioned whether disability of any kind should be protected from discrimination. Once again the Advocates for the EMS Disabled filed comments

reiterating and supplementing our earlier NOI submissions. Then, through various outreach channels, including an Action Alert from Children's Health Defense, we sought more public input in the case. The response was phenomenal. Once again our issues were the most discussed in the entire case. Even though comments can be made to the FCC by individuals and organizations through April 20, we closed our tally of comments and culling of same on April 14. By that date there were a noteworthy 631 "express" comments from individuals and 5 "formal" comments (e.g. law firms and nonprofits) asking the Commission to protect those who suffer from EMS from undesired and harmful RF exposure. The NPRM reply comment deadline is now April 20th. We have prepared the attached "Reply Comments of Advocates for the EMS Disabled" for submission. We made a point of saying this level of true public involvement shows the level of both harm and public concern.

Our attached response is relatively brief. We invite you to join us again, or join us for the first time, in urging the FCC to consider the EMS disabled before their final rule making decision. In our conclusion we state the final rules, policies and actions flowing from this proceeding must:

1. ensure that the definitions of "consumer" and "subscriber" include the EMS Disabled;
2. digital discrimination characteristics should include disability;
3. Commission rules and policies that are exacerbating digital discrimination of the EMS Disabled must be re-examined and reversed;
4. digital discrimination of access against the EMS Disabled must end and the EMS Disabled must be afforded "equal access";
5. fiber optics should be given priority for the disabled; and
6. there should be a dedicated portal for consumer complaints related to digital discrimination.

We have included the names of those who agreed to sign on to prior submissions, but those are placeholders. We need you to tell us if you desire to be on this filing. **If you would like to sign on through your organization to the attached filing, please send an email to Susan Foster at susan.foster@dotlaw.biz no later than 12:00 Pacific/3:00 PM Eastern, Wednesday April 19.** Please include your name, or the name of your organization and whether or not you would like your name to follow that of the organization with which you are affiliated.

Please let us know your preference and feel free to contact any of us if you have any questions. Once again, we thank you for your interest and your support for the rights of the EMS disabled.

Gratefully,

Susan Foster, McCollough Law Firm – susan.foster@dotlaw.biz

Odette Wilkens, Wired Broadband, Inc. – owilkens@wiredbroadband.org

Brenda Martinez, Fellow, Children's Health Defense – brenda.martinez@childrenshealthdefense.org

Attachment