

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

EMR Network,)	
)	
<i>Petitioner,</i>)	
)	
v.)	Case No. 03-1336
)	
FEDERAL COMMUNICATIONS)	
COMMISSION and)	
UNITED STATES OF AMERICA,)	
)	
<i>Respondents.</i>)	
)	

Statement of Issues to be Raised

Is the FCC's Order denying EMR Network's Petition for Inquiry and Application for Review arbitrary and capricious and a direct violation of the agency's statutory responsibilities under 42 United States Code Sections 4331 and 4332 in each of the following respects?

1. The agency has failed to carry out its continuing legal responsibility to use all practical means to improve and coordinate Federal environmental protection programs, and is following a 'don't look' policy toward the steadily growing body of scientific studies indicating possible harm to human health and nature from RF radiation. (See FCC Order pars. 1,6,8 and 11; EMR Pet. p. 6, n7)

2. The agency has failed to recognize the possibility of new or different risks of harm to human health or nature resulting from the rapid growth of new and expanding technology, and is following a 'don't ask' policy of refusing to consult with or request updated information and opinion from the Federal agencies with expertise in health and environmental research concerning the possibility of harmful effects from such new

technological phenomena as modulated and pulsed RF radiation or long periods of RFR exposure. (See FCC Order pars. 1,5,6,7,8,9,11 and 12; EMR Pet. secs. VI and VIII)

3. The agency has failed to acknowledge the worldwide and long range nature of environmental problems, and is following a 'don't listen' policy toward more protective standards and exposure limits adopted by foreign governments (including Italy and Russia) to protect their own citizens. (See FCC Order pars. 1 and 14; EMR Pet sec. IX and Ex. D)

4. The agency has unlawfully substituted the effort, analysis and judgment of a private industry-influenced organization (IEEE) for its own. (See FCC Order pars. 2,3,4,5,7,9 and 10)

Respectfully Submitted,

Whitney North Seymour, Jr.
425 Lexington Avenue
New York, New York 10017-3954
Phone: (212) 455-7640
Fax: (212) 455-7721
Counsel of Record

James R. Hobson
Marci L. Frischkorn
MILLER & VAN EATON, P.L.L.C.
1155 Connecticut Avenue, N.W.,
Suite 1000
Washington, D.C. 20036-4306
Phone: (202) 785-0600

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Counsel for Petitioners