

June 9, 2017

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Dear Commission's Secretary,

On behalf of the undersigned conservation and wildlife protection groups, please accept these comments on the Federal Communications Commission's (FCC) proposed notice of rulemaking seeking comment on whether the siting and construction of communication towers should continue to comply with the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and Migratory Bird Treaty Act (MBTA). We strongly support our nation's environmental laws and are opposed to the FCC being exempted.

This rulemaking has the potential to eliminate the FCC's existing requirement to consider the environment in communication tower development. Without NEPA, the public loses its ability to comment on proposed tower locations, or to ask that the environmental risks those towers pose to migratory birds or species of conservation concern be minimized.

We are strongly opposed to any new rulemaking that would weaken agency recommendations regarding the use of bird-safe lighting or that exempt siting decisions from NEPA. We have made substantial progress in the effort to update lighting on tall towers to reduce mortality of migratory birds.

Each year, approximately seven million of our ecologically and economically important birds collide with communication towers in North America. These collisions are primarily caused by steady-burning lights used to warn aircraft of towers' presence. Unfortunately, these lights also attract and disorient birds during the night, when many songbirds migrate. Some are threatened or endangered species.

New policies put in place by the FCC and Federal Aviation Administration (FAA) encourage tower operators to adopt modern, bird-friendly, energy-saving lighting systems. A simple switch to flashing red or white lights saves birds and electricity, and still alerts pilots to the towers' presence. As of September 28, 2016, the FAA no longer permits red non-flashing lights on any new tower above 150 feet and is actively encouraging owners of existing towers to extinguish non-flashing lights on all towers as soon as possible.

By the end of 2016, 723 tall towers nationwide (about five percent of the total) have already updated their lighting systems under the new guidelines. Making the switch reduces bird collisions by approximately 70 percent, and in the process saves energy and reduces operating costs.

Our thanks to the operators of the 700-plus towers who have voluntarily switched their lighting to help reduce bird mortality, but there are still more than 15,000 tall towers across the U.S. with outdated lights dangerous for birds. Now we are asking all tower operators to make this cost- and life-saving switch to help migratory birds.

For the last 43 years the FCC has considered communication towers to be subject to NEPA. In 1974, the FCC stated that "Federal environmental laws require the Commission, as a licensing agency to consider independently the effects of its actions on the environment." The FCC also stated that "it seems to us clear [that] there are major actions taken by the Commission which can have significant environmental effect."

Currently, towers 450 feet and taller require an Environmental Assessment to assess the potential impacts to migratory birds, as required by NEPA. We support continuation of this protection for migratory birds and ask that the height be changed from 450 feet to 350 feet which research has found is the height where bird mortality from towers begins to greatly increase.

Similarly, communications towers are subject to the ESA. Critical habitat for endangered species is an important trigger for requiring environmental analysis that should be maintained. In addition, species proposed for listing should also continue to be analyzed.

The Greater Sage Grouse needs to be given special consideration during tower development over eight feet, because these species will avoid tall structures over time, with the tallest towers creating a habitat exclusion zone up to four miles in every direction. Priority sage grouse habitat on federal lands should be excluded from new tower developments and a four-mile buffer from the boundaries of priority habitat should be maintained from any new towers.

Thank you again for this opportunity to comment. Again, we are opposed to any new rulemaking that would weaken existing environmental safeguards, or opportunities for public involvement regarding the use of bird-safe lighting or the siting of new towers. We must continue to make progress to update lighting on tall towers to reduce mortality of migratory birds.

Sincerely,

American Bird Conservancy

Cornell Lab of Ornithology

Animal Welfare Institute

WildEarth Guardians

Center for Biological Diversity

Arkansas Audubon Society

Audubon Society of New Hampshire

Maryland Ornithological Society

Michigan Audubon

Tennessee Ornithological Society

Bird City Wisconsin

Bird Conservation Network

Cape Cod Bird Club

City Wildlife, Inc.

Conservation Council for Hawai'i

DC Audubon Society

Endangered Habitats League

Environmental Protection Information Center (EPIC)

Friends of Blackwater

Harford County Bird Club

Klamath Forest Alliance

Los Angeles Audubon Society

Montgomery Bird Club

Northcoast Environmental Center

Otter Creek Audubon Society

Paskamansett Bird Club

South Florida Wildlands Association

The Forbush Bird Club

The Friends of Dyke Marsh

The Hoffmann Bird Club

The Trumpeter Swan Society

The Urban Wildlands Group

Western Nebraska Resources Council

Wildlands Network