



July 28, 2010

Keller and Heckman LLP
Serving Business through Law and Science®

FCC Antenna Tower Proceeding

On April 20, 2010, the Federal Communications Commission released a Notice of Proposed Rulemaking ("NPRM") proposing to streamline its antenna identification and registration rules as recommended by the Federal Aviation Administration (FAA). The proposed revisions are intended to improve compliance and allow the FCC to enforce the rules more effectively by removing outdated and burdensome requirements.

As described below, several parties, including the Telecommunications Committee of the American Petroleum Institute ("API"), submitted comments regarding marking and lighting specifications, voluntarily registered structures, and registration accuracy requirements.

Marking and Lighting Requirements

Both the FAA and FCC issue marking and lighting requirements for antenna structures. Generally, tower owners are required to comply with FAA advisory circulars which are referenced in Part 17 of the FCC's rules. Issuance of superseding FAA circulars which conflict with the FCC's Part 17 references continue to cause confusion among tower owners. Commenters agree this process is confusing and urged the FCC to remove all reference to FAA circulars from Part 17. Many commenters also agreed that structure owners should be informed of all requirements through the FAA and FCC registration process until the FAA recommends new specifications for a particular structure. In addition, API urged that new FAA marking and lighting requirements should not be applied retroactively to existing towers due to the speculative impact and unknown cost to existing tower owners.

Treatment of Voluntarily Registered Structures

Under the FCC's rules, only antenna structures requiring notice to the FAA require registration with the FCC. However, tower owners are permitted to register structures voluntarily. The current Notice requested comment on whether to prohibit voluntary registration or require voluntary registration holders to comply with Part 17 of the Commission's rules. The majority of commenters requested the FCC continue to permit voluntary registration which creates a more complete database of antenna structures nationwide.

ASR Accuracy Requirements

The FCC also proposed to require height information on Form 854 to be accurate within one foot and coordinates to be accurate within one second of one degree longitude and latitude. Comments were requested on whether a particular survey method should be specified for verifying accuracy. API urged the Commission to allow accuracy up to one meter to take into consideration minor changes to a structure during construction. API also recommended the FCC not require any specific survey method which could restrict new, more advanced measurement technologies and practices.

* * *

The Washington Report is prepared by Keller and Heckman LLP, 1001 G Street, NW, Washington, D.C. 20001. For further information, please contact Jack Richards, General Counsel of ENTELEC (richards@khlaw.com; 202 434-4210) or Wes Wright (wright@khlaw.com; 202 434-4296). Keller and Heckman LLP also represents the Telecommunications Committee of the American Petroleum Institute.