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RF Radiation

Smart Meters and Other Developing Problems

IMLA Mid-Year Seminar

Omni Shoreham Hotel, Washington, D.C., April 14, 2013

PRESENTED BY

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Of Counsel

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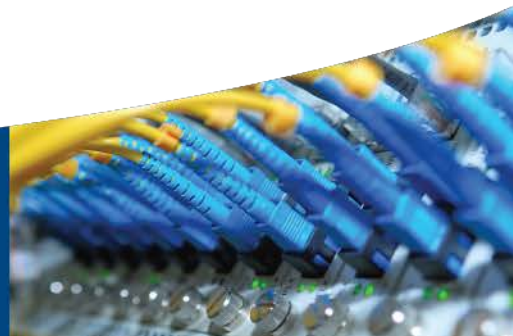
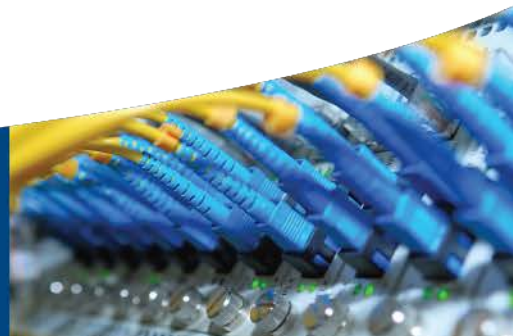


FCC Regulation of RF Radiation

- Found in rules implementing NEPA
- 47 CFR §§ 1.1307, 1.1310, 2.1091, 2.1093
- Last amended 1996, based on data then 5-10 years old
- GAO recommends review, possible update:

FCC should formally reassess and, if appropriate, change its current RF energy exposure limit and mobile phone testing requirements related to likely usage configurations, particularly when phones are held against the body. FCC noted that a draft document currently under consideration by FCC has the potential to address GAO's recommendations.
http://www.gao.gov/products/GAO-12-771 7-24-2012



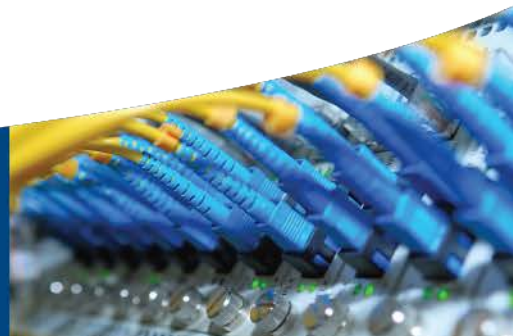
Forthcoming Order, NPRM & NOI

- 06/15/2012 OET Proposed Changes in the Commission's Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields (ET Doc. 03-137) R&O; Further Notice of Proposed Rulemaking; Reassessment of FCC's Radiofrequency Exposure Limits and Policies, Notice of Inquiry
- FCC voting “on circulation” since June of last year; wireless industry likely not pushing its release
- Among issues for Order, “specific absorption rates” (SARs) for Part 15 unlicensed devices such as electric meters



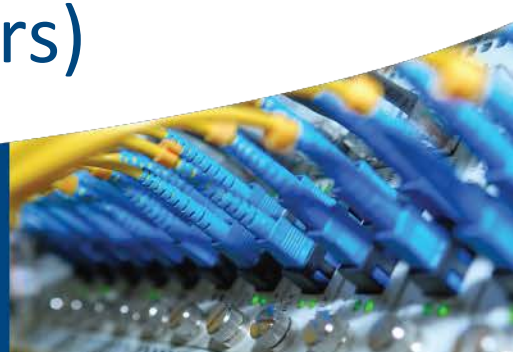
Smart Meters

- May refer to wireless digital devices measuring utility service consumption generally, focus here is on electric power
- **42 USC § 17381. Statement of policy on modernization of electricity grid** It is the policy of the United States to support the modernization of the Nation's electricity transmission and distribution system to maintain a reliable and secure electricity infrastructure that can meet future demand growth and to achieve each of the following, which together characterize a Smart Grid
- **Key point**: For these wireless services, FCC preemptive authority at Section 332(c)(7)(B)(iv) does not apply, Report and Order, 11 FCC Rcd 15123 (1996), ¶ 167, reconsidered, 12 FCC Rcd 13494 (1997), ¶ 88
- However, industry often portrays federal rules as universal mandates



California PUC

- Allowed power utilities to deploy smart meters eight years ago
- Dismissed claims of radiation hazard initially on basis of FCC preemption, later shifted to finding of no danger
- Record includes evidence of meter fires
- Now considering terms and financial consequences of residential consumer “opt-out” (not applicable to business users)



Maine and Vermont

- Friedman v. Maine PUC, et al.

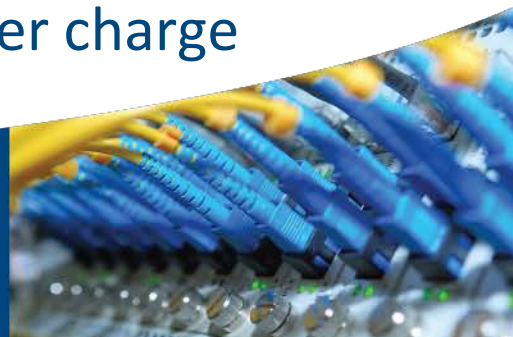
http://www.courts.state.me.us/opinions_orders/supreme/lawcourt/2012/12me90fr.pdf

- "Because we agree with Friedman that the Commission should not have dismissed the portion of the complaint against CMP addressing health and safety issues, we vacate that portion of the judgment."

- **30 V.S.A. § 2811**

(b) Customer rights

(2) allows a customer to choose not to have a wireless smart meter installed, at no additional monthly or other charge



Naperville, Illinois

- From City web site, http://www.naperville.il.us/smartgrid.aspx
- The Naperville Smart Grid Initiative is an investment in Naperville's city-owned utility that will modernize the electric grid using the latest digital technology to increase reliability, reduce operating costs, improve efficiency and reduce waste for our customers.
- Naperville Smart Meter Awareness: Informing the Naperville community about the risks of smart meters, http://www.napervillesmartmeterawareness.org/
- One issue: Under PURPA, should time-based metering be "opt-in" or "opt-out?"

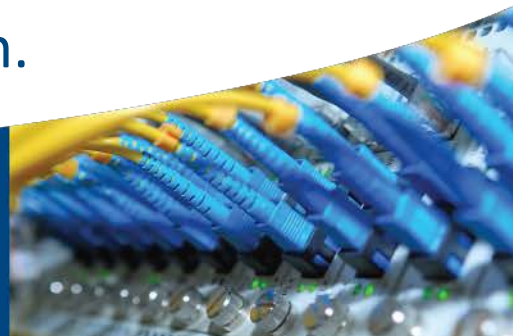


Virginia-Maryland-DC

- In Virginia, SB 797 was introduced in the Virginia Senate in 2013 but died in committee. http://lis.virginia.gov/cgi-bin/legp604.exe?131+sum+SB797

- In Maryland HB 1038 is still active and will be heard on March 14. http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=hb1038&stab=01&pid=billpage&tab=subject3&ys=2013RS

- The DC Public Service Commission has hired a consultant to research the effects of smart meter RF radiation.



Other states or cities?

- If we have time, let's discuss here
- Or later



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