

**Affidavit of Michele Hertz in Support of Standing**

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

Children's Health Defense, Michele Hertz, )  
 Petra Brokken, Dr. David O. Carpenter, Dr. )  
 Paul Dart, Dr. Toril H. Jelter, Dr. Ann Lee, )  
 Virginia Farver, Jennifer Baran, Paul )  
 Stanley, M.Ed. )  
 Petitioners )  
 v. )  
 Federal Communications Commission and )  
 United States of America, )  
 Respondents )

Case No: 20-1138

Petition for Review of Order by the Federal  
 Communications Commission  
 (FCC 19-126)

(Consolidated with Case No. 20-1025)

**AFFIDAVIT OF MICHELE HERTZ IN SUPPORT OF STANDING**

1. I am one of the named Petitioners in the above captioned proceeding. My home address is 792 Sleepy Hollow Road, Briarcliff Manor, New York 10510. When I submitted comments to the FCC, my address was 62 Euclid Avenue, Hastings on Hudson, New York 10706. I am a member of Children's Health Defense.
2. The purpose of this Affidavit is to provide evidence of my standing to pursue the matter. I will provide some of the basic facts particular to my individual circumstances, but also rely on the presentations contained in the Affidavits of Dafna Tachover, Dr. Paul Dart, Dr. Toril Jelter and Dr. David Carpenter to explain why the basic facts I present below demonstrate that I have suffered an injury-in-fact traceable to the FCC Order that could be redressed by an order from this Court holding unlawful, vacating, enjoining, and/or setting aside the FCC Order and remanding the matter to the FCC for further consideration and action.
3. I filed 4 sets of comments with the FCC in the proceedings below on February 6, 2013<sup>1</sup>, March 7, 2013<sup>2</sup>, September 3, 2013<sup>3</sup> and July 12, 2016.<sup>4</sup> Each filing described my illness from exposure to wireless radiation and asked the FCC to recognize the injuries suffered by individuals like me and change its guidelines and rules to adequately protect the public from the harms being caused by their current regulatory approach.
4. I previously led a normal life with my husband and two sons. We traveled and both my husband and I had careers that we loved. We used Wi-Fi at home and used cell phones. Suddenly, for no obvious reason, I became sick. Another member of our household developed health issues but mine were the most severe and unrecognizable.
5. In 2007, however, Central Hudson (the electric utility company for our newly constructed weekend home in Accord, New York), installed a wireless radiofrequency (RF) transmitting utility meter at our property. Soon thereafter, and only when we were in Accord, I began to experience heart palpitations that would startle me awake from sleep. I became concerned that I had a heart problem, so I went to my doctor. He tested my heart and found nothing wrong with my heart. I continued to have occasional and uncomfortable heart palpitations, again, only while I was in our home in Accord.
6. In mid-2009, Con Edison replaced the analog gas and electric utility meters serving our full-time residence in Hastings on Hudson, New York, with wireless meters. I asked one of the Con Edison workers if the

<sup>1</sup> <https://www.fcc.gov/ecfs/filing/6017162631>.

<sup>2</sup> <https://www.fcc.gov/ecfs/filing/6017166976>.

<sup>3</sup> <https://www.fcc.gov/ecfs/filing/6017465975>.

<sup>4</sup> <https://www.fcc.gov/ecfs/filing/1071387223273>.



**AFFIDAVIT OF MICHELE HERTZ IN SUPPORT OF STANDING**

meters were safe. He responded they were safe and "were no different than a cell phone." He told me the meter would transmit a cell phone-like signal once a month to a passing Con Edison truck. At the time, I trusted that the representations he made were true and accurate and I relied upon those representations to allow the installation of the wireless utility meter.

7. I spent much of the summer of 2009 in Accord. I continued to have sporadic heart palpitations when I was there. At the end of the summer we returned to Hastings. I soon began to experience more frequent heart palpitations and additional symptoms including agitation, memory and word loss, inability to concentrate on my work, nervousness and anxiety, long bouts of diarrhea and weight loss and unusual menstrual disruption. A mole on my back suddenly began to grow larger. I was 50 years old at that time and began to wonder if I was developing early onset Alzheimer's. I was obviously not well, so I again went to my doctor. He was unable to diagnose the cause of my ailments.

8. During a February 2010 major snowstorm in Hastings, I was at home alone. The electricity went on and off several times during that storm. One of the disruptions occurred while I was in my living room next to my fireplace and about five feet away from the wireless utility meter on the exterior wall. I heard a very high-pitched piercing sound in my right ear and I began to suffer painful pressure in my head and both of my ears. It was so bad I doubled over in pain. Almost immediately thereafter I developed even worse symptoms. I would hear a constant loud and very disturbing buzzing-pulsing sound, especially in my right ear. I was extremely agitated for no discernible reason. My sleep would be interrupted, and I had nightmares about being attacked. The heart palpitations became more common and so severe I feared I would suffer a heart attack. I had pain in my jaws and teeth. The mole on my back began to blow up and grow larger over the following weeks.

9. I began to sleep on my kitchen floor so that the sound of the refrigerator would drown out the terrible buzzing in my ears. During this same period my husband developed high blood pressure and had to be placed on blood pressure medication and the rest of my family was often agitated and uneasy. I soon noticed that I felt better when outside, so I began to suspect that something was wrong inside, perhaps with the electricity.

10. After a conversation with an electrical specialist, I began to suspect that my symptoms might be traceable to the wireless utility meters that Central Hudson and Con Edison had installed at our two homes because my ailments all started when they were installed. The wireless utility meters were the only newly introduced electrical and technical appliances in our homes. After doing research on RF radiation, it seemed likely that we were all being harmed by the RF radiation coming from the wireless utility meters.

11. I requested that both Con Edison and Central Hudson replace all wireless utility meters from our homes with analog meters. Con Edison, after many requests, agreed to remove the wireless utility meters and install analog replacements if I presented a doctor's letter. I gave them the doctor's letter and, after some delays we were given analog meters in our principal residence. I experienced an immediate improvement in my condition. I felt as if I were being released from being electrocuted, and within hours I began feeling slightly better. The loud buzzing-pulsing did not go entirely away but it did get noticeably quieter. My thoughts became less scrambled. Within weeks the mole on my back bled, dried up and fell off. My dermatologist was quite surprised. I began to intermittently menstruate, although never normally again.

12. I learned that other people in Hastings also became ill after wireless utility meters were installed on their homes. None of them were able to get the utility companies to remove the meters despite vigorous requests for the utilities to do this. Utility companies continue to falsely claim the meters are safe and tested by the FCC and refuse to remove them, even when a letter from a doctor has been supplied, asking for their removal.

13. Once I was able to firmly link the wireless utility meters to my illness and symptoms, I started to contact the utilities, elected officials and state and local government agencies, including the FCC, to report that there was something wrong with these meters. The irresponsible, dismissive, discourteous and lame responses I received, especially from the FCC, stunned me. This prompted me to create an organized group effort to bring attention to the problem. We hired an RF engineer. His report uncovered that the FCC's approved wireless



**AFFIDAVIT OF MICHELE HERTZ IN SUPPORT OF STANDING**

utility meters rely on meaningless and inappropriate testing. We presented his report and the evidence to the New York State Public Service Commission, who ignored them and told us all repeatedly that for help on this matter we should contact the FCC.

14. In my attempts to bring attention to this matter, I contacted the FCC numerous times. On one occasion an FCC representative told me "We don't deal with humans, only frequencies" and hung up. Another time the employee became indignant and when I asked his name he hung up. Five minutes later he called me back, apparently from his personal cell phone, and admitted that what I was saying was correct: there was a problem with wireless utility meters. I was pleased to hear that, but the fact he had to take special steps to avoid having his admission be heard by others at the Commission strongly implies it is actually aware of the problem but refuses to make a statement formally and publicly.

15. I, and the organizations I am involved with, have been working on this for almost 10 years. Along with the FCC we have contacted other federal agencies for help, but this has proven to be futile. They send us through pointless round trips through multiple agencies that merely end back at the FCC. I contacted the Federal Consumer Product Safety Commission by phone. In the middle of taking my complaint the person suddenly put me on hold and when she came back, she said "I'm sorry we can't take complaints about smart meters." I tried the U.S. Department of Health and Human Services by phone and email, but they referred me to the U.S. Department of Energy. When I dutifully contacted the Department of Energy by mail, fax and email, they referred me to the New York State Public Service Commission, which had already told me to contact the FCC. So, I went back to the FCC, which this time told me to contact the U.S. Environmental Protection Agency (EPA). The EPA, however remitted me back to the FCC.

16. I continue to work on this issue as the President of NYSUMA – New York Safe Utility Meter Association, a 501c organization. We are fighting for the right of all New York State residents to have a safe utility meter choice. The roadblock we continually hit is the ignorant reliance, by local, state and federal agencies and others, on FCC RF guidelines that are based on an obsolete hypothesis that there are only thermal effects, while ignoring the clear human evidence of which I am a part of, and clear science of harms from long term exposure to non-thermal levels of radiation from pulsed and modulated radio and microwave frequencies based technologies.

17. After the wireless utility meters were removed from my properties, I felt better but continued to experience symptoms from wireless devices and infrastructure. Our home in Hastings was flooded with RF radiation from numerous wireless sources such as cell towers along with wireless electric water and gas utility meters and Wi-Fi routers in nearby houses. There were nights when I was in Hastings, that I would wake up thinking there was an earthquake, but it merely was my own body quaking and shaking. We loved living in Hastings; we spent 22 years carefully restoring our historic 1910 home, getting involved in community and school affairs and feeling at home in the Hastings community. After our youngest son went to college I therefore began living, part-time, at our house upstate because I could no longer tolerate our neighborhood in Hastings. In 2019, after 22 years, my husband and I were forced to move from our home in Hastings to where we now reside.

18. I am now 61 years old. After what I endured from wireless utility meters my life has been irrevocably altered. I have Microwave sickness with indications that are similar to what the American embassy workers in Cuba reported after they were exposed to "non-thermal" RF/Microwave weaponry or spy equipment. Professor Beatrice Golomb, MD PhD from the University of California San Diego medical school, published a paper that provides a scientific basis for this explanation<sup>5</sup>.

---

<sup>5</sup> Golomb B. Diplomats' mystery illness and pulsed radiofrequency/microwave radiation. Neural Comput. 2018 Sep 5. doi: 10.1162/neco\_a\_01133, available at <https://www.ncbi.nlm.nih.gov/pubmed/30183509>; abstract filed below at



**AFFIDAVIT OF MICHELE HERTZ IN SUPPORT OF STANDING**

19. In the following paragraphs, I will explain how Microwave sickness presently affects me:

A. Wireless Utility Meters: When I am in the vicinity of one or more wireless utility meters, I will get shooting pains in my temple and head and feel my temperature rise and my heart weirdly thumping and skipping beats, and I cannot sleep.

B. Wi-Fi Routers: When exposed to Wi-Fi radiation, I get a tightening sensation on the top of my skull and headaches. When I try to sleep where there is Wi-Fi, my brain feels like it goes into spasms and I cannot sleep deeply for several days. For this reason, traveling is torturous because Wi-Fi is everywhere.

C. Cell Phones: I get shooting pains through my temples. I can be sitting in a restaurant, enjoying the company of friends and family, and I will suddenly be struck with a shooting pain through my head that stops me mid-sentence, bends me over in pain and makes me forget what I was saying. I then realize upon turning around that someone behind me, who had been out of my sightline, is using a cell phone. We do not allow the use of cell phones in our home. When someone forgets or tries to sneak a quick cell phone call in our home, I will get shooting pains in my temples and head and feel my temperature rise and my heart weirdly thumping and skipping beats, and I cannot sleep.

D. Cell Towers: If I am near a cell tower, I will get those same shooting pain in my temples and head and feel my temperature rise and my heart weirdly thumping and skipping beats, and I cannot sleep. When I am driving on long trips and I feel tired and need to rest for a while I cannot stop near cell towers/transmitters because they prevent me from falling asleep. This puts my life in danger when I cannot find a place to rest.

E. Computers: Since this whole problem began I have developed Grave's disease, which I attribute to RF exposure. This is an auto-immune disorder that causes hyperthyroidism and it has seriously affected my eyes. Computers hurt my eyes. I wear protective glasses and I have applied a special blue light cover on the screen of my computer. All the wireless on my laptop is disabled. In our home everyone exclusively uses wired internet connections.

20. Presently, I shy away from spending time in social situations, unless I am with people who are considerate of my sickness from wireless radiation. Because I am an artist, I previously spent a great deal of time in museums, but now, with all of the wireless equipment present, I have stopped going to museums. I had to leave the sculpture studio where I had worked three to four full days a week for many years in 2010 because of all the wireless radiation. Last year, I began going there again but for only one-half day a week and I wear an RF protective hat that helps to diminish the effect of the RF radiation. I must live in a way that best protects me from exposure to RF radiation but, with the increasing proliferation of wireless technology as a result of the active support of the FCC and its complete disregard to health and safety, that is getting more and more difficult.

21. We moved away from Hastings only to learn that a cell tower, possibly with 5G equipment, was being installed near our new home and is now up and running. That cell array is very close to a horse farm where I have been taking riding lessons. Since the installation of that tower, three horses have died and there are now health problems with some of the other horses. It is a living nightmare.

22. One of my sons and his wife have moved to the southern United States. This will be an airplane ride away. Flying has become almost impossible for me. Being locked in a metal box with tremendous levels of RF radiation does not only make me sick but, because of my heart response to RF radiation, I am terrified that I could have a heart attack. Finding a place to stay is almost impossible. The last two times that we stayed in a

<https://ecfsapi.fcc.gov/file/1091330786203/Wireless%20radiation%20and%20EMF%20abstracts%20August%202016%20-%20August%202019%20Joel%20Moskowitz%209-13-2019.pdf> on pages 206-207.



**AFFIDAVIT OF MICHELE HERTZ IN SUPPORT OF STANDING**

hotel I could not sleep and felt unwell for the whole stay. Last summer, my husband and I traveled for five hours by car to an inn on a lake in upstate, New York. I had been promised by the manager that there was no wireless utility meter on the cabin that we were to rent. When we arrived at the inn I noticed immediately that the top of my head started to feel a tightening. I attributed this to strong Wi-Fi signals. Our cabin was away from the main inn and they said that they had shut down the Wi-Fi for us. When we got to the front door of the cabin, there was a wireless utility meter right on the front wall. We had to turn around and drive five more hours to get home because it would have been impossible for us to find a place that would be safe for me.

23. I have learned that avoiding RF radiation is my only recourse. It is isolating. It has led to a great deal of loss. Government regulators deny the facts and ignore the science. The FCC is deemed the ultimate regulator for RF safety, but that is far outside their expertise. After all, as the FCC employee advised me "We don't deal with humans, only frequencies." The government has failed us while placing everyone at risk.

24. The FCC order did not adequately consider, or reasonably respond to my comments or those of others who explained the injuries they have suffered and asked for relief. Their decision to retain their existing rules without addressing the problems faced by those that are already afflicted with illness entirely failed to resolve the problems I and my family face in daily life as a result of chronic, long-term exposure and the prospect of continued exposure to harmful radiation in the future as this technology further proliferates. The present rules do not adequately protect my or the public's health and safety, and in fact, directly allow and encourage continuous harm from non-consensual exposure. The FCC's decision not to materially change its limits and guidelines means I cannot obtain any relief from non-consensual exposure at any level. My family is exposed to non-consensual radiation wherever we go, including in our own home. For so long as the FCC refuses to revise its standards, limits and guidelines I will suffer an injury-in-fact.

25. My injury would be redressed by an order from this Court holding unlawful, vacating, enjoining, and/or setting aside the FCC Order and remanding the matter to the FCC for further consideration and action. If the FCC guidelines are revised to prevent harm from exposure or at least make some provision for those already injured by exposure I may finally get some relief from my suffering and will no longer be compelled to help others understand why they suffer too.

26. This concludes my Affidavit, as noted above, I am also relying on the Affidavits of Dafna Tachover, Dr. Paul Dart, Dr. Toril Jelter and Dr. David Carpenter for the purpose of explaining why the particular facts described above demonstrate standing.

Further Affiant sayeth not.

  
Michele Hertz

STATE OF NEW YORK )

:ss.:

COUNTY OF WESTCHESTER (Signatory))

COUNTY OF KINGS (Notary) )

SUBSCRIBED AND SWORN TO BEFORE ME this 6<sup>th</sup> day of May, 2020.



Brendan Cyr  
Notary Public-State of New York  
No. 02CY6235114  
Qualified in New York County  
My Commission Expires January 31, 2023

Notary Public in and for New York State

Notarized remotely pursuant to New York State Executive Order 202.7