
PAINTING, MARKING, AND DISMANTLEMENT OF RADIO
TOWERS

SEPTEMBER 16, 1965.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce, submitted the following

R E P O R T

[To accompany S. 903]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 903) to amend the Communications Act of 1934, as amended, with respect to painting, illumination, and dismantlement of radio towers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The purpose of S. 903¹ is to amend section 303(q) of the Communications Act of 1934 to require that abandoned or unused radio towers continue to meet the same painting and lighting requirements that would be applicable if such towers were being used in connection with the transmission of radio energy pursuant to a license issued by the Federal Communications Commission. The enforcement of these requirements, as in the case of towers in operation, would be in the hands of the Commission. The bill further empowers the Commission to direct dismantlement of such towers when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that they may constitute a menace to air navigation.

Under section 303(q) of the Communications Act, the Federal Communications Commission has authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation. Pursuant to this statutory authority, the Commission has adopted criteria to gage the aero-

¹ A companion bill, H.R. 11003, was introduced by Chairman Harris at the request of the FCC.

nautical hazard in particular cases and has prescribed rules specifying the painting and lighting requirements for these towers (pt. 17 of FCC rules).

However, when a radio station license expires, is canceled, or is revoked, these towers are no longer used in connection with authorized radio station operation. They are then "abandoned towers," and as such, do not appear to fall within the Commission's jurisdiction to compel continued marking or lighting.

Radio towers, which are of latticed construction, are inherently less visible than solid structures such as buildings, water towers, smokestacks, and the like. The potential menace to air navigation of such a tower left standing unlighted and unpainted is obvious.

The Joint Industry Government Tall Structures Committee (JIGTSC), established by the Air Coordinating Committee to investigate the problems raised by the joint use of airspace by the aviation and broadcast industries, and to recommend appropriate action establishing the position of the Federal Government, recommended in 1957 that—

the Federal Communications Commission require the removal or appropriate lighting and marking of unused or abandoned towers if it has such authority, and if such authority does not exist * * * that the Federal Communications Commission seek appropriate legislation to attain this objective.

COMMITTEE HEARINGS

The committee held hearings on this legislation in the course of which it received testimony from Chairman E. William Henry of the Federal Communications Commission. The committee knows of no opposition to this legislation.

AGENCY REPORTS

The following reports from the departments and agencies have been received on this legislation:

FEDERAL AVIATION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., August 30, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is inreply to your request for the views of this Agency with respect to S. 903, a bill to amend the Communications Act of 1934, as amended, with respect to painting, illumination, and dismantlement of radio towers.

This proposal would amend section 303(q) of the Communications Act to require that abandoned or unused radio towers continue to meet the same painting and lighting requirements that would be applicable if such towers were being used in connection with the transmission of radio energy pursuant to license issued by the Federal Communications Commission. The proposal further empowers the Commission to direct dismantlement of such towers when the Administrator of the Federal Aviation Agency determines that there is

a reasonable possibility that they may constitute a menace to air navigation.

The Federal Aviation Agency favors enactment of this bill, for it would remedy a serious problem of long standing. Antenna towers constitute a particular danger to pilots, both because of their height and their peculiar structure. Today we have such towers extending as high as 2,000 feet above ground. These structures, being extremely narrow and of latticed construction, create unusual visibility problems for pilots, and it is particularly important that they be properly marked and illuminated both for the protection of persons using the airways and for the protection of persons on the ground in the vicinity of a tower. As long as a broadcasting tower is subject to FCC jurisdiction, broadcasters are required to provide standard marking and lighting protection prescribed in regulations issued by the FCC. When a broadcasting tower is abandoned, however, the protection of this marking and lighting is no longer assured, for the Commission's authority to regulate in that area is terminated. S. 903 would extend the Commission's authority to fill this regulatory gap, and thus afford the public continued protection against unmarked and unlighted towers.

S. 903 also authorizes the Commission to require the dismantling of abandoned towers constituting a menace to air navigation, and it identifies the Administrator of the Federal Aviation Agency as the individual authorized to make the determination on the question of the effect of an abandoned tower on air navigation. We believe this measure necessary and appropriate for the public protection. Where a tall tower no longer serves a useful purpose, and where its existence may create a hazard to air navigation, its owner should be required to dismantle and remove it.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely,

(Signed) WILLIAM F. MCKEE,
Administrator.

CIVIL AERONAUTICS BOARD,
Washington, D.C., August 18, 1965.

B-1-38A.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of August 6, 1965, requesting the Board's comments with respect to S. 903, an act to amend the Communications Act of 1934, as amended, with respect to painting, illumination, and dismantlement of radio towers.

S. 903 would amend section 303(q) of the Communications Act of 1934, authorizing the Federal Communications Commission to require the painting and illumination of radio towers used in connection with the licensed transmission of radio energy when it believes such towers constitute a menace to air navigation, so as to require that abandoned or unused radio towers continue to meet the same painting and lighting requirements that would be applicable if such towers were

being used pursuant to license. The Commission would also be empowered to require the dismantlement of such towers when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that they may constitute a menace to air navigation.

The Commission pointed out in its letter transmitting draft legislation to the Congress which was identical to S. 903 that since the events leading to abandonment normally coincide with expiration, cancellation, or revocation of a station license it is powerless to compel continued obstruction marking except in those cases where other radio licenses are outstanding in the name of the same person. The Commission also pointed out that a Joint Industry Government Tall Structures Committee (JIGTSC), established to investigate the joint use of airspace by the aviation and broadcast industries, recommended that the Commission seek legislation, if necessary, authorizing it to require the removal or appropriate lighting and marking of unused or abandoned towers.

Since S. 903 would contribute to air safety by requiring appropriate marking of unused or abandoned radio towers, the Board urges its enactment.

The Board has been advised by the Bureau of the Budget that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

CHARLES S. MURPHY, *Chairman.*

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, August 17, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to S. 903, 89th Congress, an act to amend the Communications Act of 1934, as amended, with respect to painting, illumination, and dismantlement of radio towers. The Air Force has been designated to express the views of the Department of Defense.

The purpose of the proposed legislation is to amend the Communications Act of 1934 to require that a permittee or a licensee shall maintain the painting and/or illumination of a tower which has been licensed to transmit radio energy. In the event the tower should cease to be licensed by the Federal Communications Commission for the transmission of radio energy, the owner of the tower would maintain the prescribed painting and/or illumination until it is dismantled and the Federal Communications Commission may require the owner to dismantle and remove the tower when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that it may constitute a menace to air navigation.

The Department of Defense, as a major user of the airspace, supports the principle that existing radio transmission towers should be adequately painted and lighted and than abandoned or unused radio towers should be dismantled. However, since this matter is

of direct concern to the Federal Communications Commission and the Federal Aviation Agency, the Department of Defense defers to these agencies for a determination of the exact statutory legislation required.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

(Signed) ROBERT H. CHARLES,
Assistant Secretary of the Air Force
(Installations and Logistics).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., September 1, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 903, an act to amend the Communications Act of 1934, as amended, with respect to painting, illumination, and dismantlement of radio towers.

S. 903 would authorize the Federal Communications Commission to require the painting and illumination of abandoned radio towers until their dismantlement. It would also empower the Federal Communications Commission to require dismantlement of unused towers when the Administrator of the Federal Aviation Agency determines that a tower constitutes a menace to air navigation.

There would be no objection from the standpoint of the administration's program to enactment of S. 903.

Sincerely yours,

(Signed) PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 303(q) OF THE COMMUNICATIONS ACT OF 1934

GENERAL POWERS OF COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires, shall—

* * * * *

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(q) Have authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation. *The permittee or licensee shall maintain the painting and/or illumination of the tower as prescribed by the Commission pursuant to this section. In the event that the tower ceases to be licensed by the Commission for the transmission of radio energy, the owner of the tower shall maintain the prescribed painting and/or illumination of such tower until it is dismantled, and the Commission may require the owner to dismantle and remove the tower when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that it may constitute a menace to air navigation.*

