



American Association of
State Highway and
Transportation Officials

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Wayne Muri, President
Chief Engineer
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and Transportation
Department

Francis B. Francois
Executive Director

September 28, 1993

Office of the Secretary
Federal Communications Commission
1919 M Street, Rm. 239
Washington, D.C. 20554

Re: ET Docket No. 92-9, RM-7981 and RM-8004

Dear Sir or Madam:

Enclosed are an original and nine copies of a Petition for Clarification or Reconsideration from the Public Safety Communications Council (PSCC).

Thank you for your consideration of PSCC's position on this important matter.

Yours truly,

Larry A. Miller
Chairman, Public Safety
Communications Council

LAM:ABM
Enclosure

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OFFICE OF THE SECRETARY

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Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Redevelopment of Spectrum to)
Encourage Innovation in the)
Use of New Telecommunications)
Technologies)

ET Docket 92-9
~~RM-7981~~
RM-8004

PETITION FOR CLARIFICATION OR RECONSIDERATION
FROM THE
PUBLIC SAFETY COMMUNICATIONS COUNCIL

Larry A. Miller, Chairman

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Redevelopment of Spectrum to)
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Use of New Telecommunications)
Technologies)

ET Docket No. 92-9
RM-7981
RM-8004

To: The Commission

PETITION FOR CLARIFICATION OR RECONSIDERATION
FROM THE
PUBLIC SAFETY COMMUNICATIONS COUNCIL

This Petition from the Public Safety Communications Council (PSCC) requests Clarification or Reconsideration of the Third Report and Order and Memorandum Opinion and Order in ET Docket 92-9, Federal Communications (FCC) 93-351, released August 13, 1993, and published in the Federal Register on September 2, 1993 (58 Fed. Reg. 46547).

PSCC

The Public Safety Communications Council is an organization of associations which the Commission has certified as the representative Frequency Coordinators for the Emergency Medical, Fire, Forestry-Conservation, Highway Maintenance, and Special Emergency Radio Services, as provided in the Commission's Part 90 rules, and of sponsoring entities.

The executive and sponsoring members of the council include the American Association of State Highway and Transportation Officials (AASHTO); the Forestry-Conservation Communications Association (FCCA); the International Association of Fire Chiefs (IAFC); the International Association of Fish & Wildlife Agencies (IAFWA); the International Municipal Signal Association (IMSA); the National Association of Business and Educational Radio (NABER); and the National Association of State Foresters (NASF).

ISSUE

PSCC supports the Commission's Third Report and Order and Memorandum Opinion and Order in ET Docket 92-9 with one exception; the Commission's apparent belief that the state and local governmental licensees of radio facilities in the Highway Maintenance and Forestry-Conservation Radio Services are less worthy of priority consideration than similar licensees in other Public Safety Radio Services covered by Part 90 of the Commission's rules.

Thus, in its July 15, 1993 action, the Commission held that the facilities exempt from the involuntary relocation process include only those facilities currently licensed on a primary basis under Section 90.19 Police Radio Service; Section 90.21 Fire Radio Service; Section 90.27 Emergency Radio Services. Since the majority of communications carried on these facilities are used for

police, fire or emergency medical services operations involving the safety of life and property.

The Commission also held that it will permit other licensees under Part 90 Subparts B and C to request similar treatment upon a showing that their facilities are providing safety of life and property services and that the majority of the communications carried are used for operations involving safety of life and property.

By its action, the Commission has created a distinction between some groups of licensees on the one hand, and other groups on the other hand, whereas no distinction exists in fact. The vast majority of licensees in both cases are state or local governments which are all responsible for providing safety of life and property services.

Even if the licensees were more narrowly defined as the Police or Fire or Rescue Departments, which they are not, the Commission seems to have held that a communications system supporting a Police Department's Meter Maid Operation, for instance, is to have more of a safety-of-life-and-property standing than the first responder emergency forces which combat the wide-ranging forest fires or floods which annually lay waste to enormous geographical areas of America.

That, of course, would be nonsensical. Besides, the Commission's rules provide that the facilities under discussion in this proceeding can be shared without the distinction the Commission is attempting to draw.

Why make a state or local government that is the licensee of facilities licensed in Part 90 Subparts B or C, as well as facilities licensed under sections 90.19, 90.21, or 90.27, make the special safety-of-life-and-property showing for one or more parts of its communications facilities and not other parts?

PSCC, on behalf of its member organizations, asks the Commission to clarify or reconsider its position on this issue after considering the extremely small difference it would make in the overall spectrum relocation process it has adopted. The principal result of the Commission's not granting this petition would be the generation of paperwork by the state and local governments which would be obliged to make the special showing for which the Commission has provided, and without offsetting the value to public safety or the public interest.

That, of course, would be nonsensical. Besides, the Commission's rules provide that the facilities under discussion in this proceeding can be shared without the distinction the Commission is attempting to draw.

Why make a state or local government that is the licensee of facilities licensed in Part 90 Subparts B or C, as well as facilities licensed under sections 90.19, 90.21, or 90.27, make the special safety-of-life-and-property showing for one or more parts of its communications facilities and not other parts?

PSCC, on behalf of its member organizations, asks the Commission to clarify or reconsider its position on this issue after considering the extremely small difference it would make in the overall spectrum relocation process it has adopted. The principal result of the Commission's not granting this petition would be the generation of paperwork by the state and local governments which would be obliged to make the special showing for which the Commission has provided, and without offsetting the value to public safety or the public interest.

Respectfully submitted,
Public Safety Communications Council

By: Larry A. Miller
Larry A. Miller, Chairman
Public Safety Communications Council

CERTIFICATE OF SERVICE

I, Angelique B. Metoyer, an administrative assistant with the American Association of State Highway and Transportation Officials, hereby certify that on this 29th day of September, 1993, I have caused a copy of the foregoing "Petition for Clarification and/or Reconsideration" to be sent via first-class United States mail, postage prepaid, to the following;

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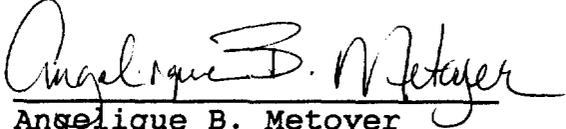
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