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OFFICE OF GENERAL COUNSEL

M E M O R A N D U M

TO: Chief, PIRS

FROM: Associate General Counsel, Litigation Division

SUBJECT: Association of Public-Safety Communications Officials-International, Inc. v. FCC & USA, No. 95-1104. Filing of one new Petition for Review filed in the United States Court of Appeals for the District of Columbia Circuit.

DATE: February 27, 1995

Docket No(s). ET Docket No. 92-9

File No (s).

This is to advise you that Association of Public Safety Communications Officials-International, Inc., on February 10, 1995, filed Section 402(a) Petitions for Review of: In the Matter of Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, FCC 94-303, released December 2, 1994.

Petitioner challenges the FCC's decision to require state and local government agencies that use certain radio frequency bands to relinquish their microwave facilities licenses and relocate to other bands to accommodate providers of emerging technologies.

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed this cases as No. 95-1104 and this case has been assigned to James M. Carr.

Daniel M. Armstrong

cc: General Counsel
Office of Public Affairs
Shepard's Citations

In the
UNITED STATES COURT OF APPEALS,
for the DISTRICT OF COLUMBIA CIRCUIT PH '95

ASSOCIATION OF PUBLIC-SAFETY)
COMMUNICATIONS OFFICIALS-)
INTERNATIONAL, INC.)
)
Petitioner,)
)
v.)
)
FEDERAL COMMUNICATIONS COMMISSION)
and the UNITED STATES OF AMERICA)
)
Respondents.)

OFFICE OF
GENERAL COUNSEL

Case No. 95-1104
filed 2/10/95

PETITION FOR REVIEW

The Association of Public-Safety Communications Officials-
International, Inc. ("APCO"), by its attorneys and pursuant to
Rule 15 of the Federal Rules of Appellate Procedure and Section
402(a) of the Communications Act of 1934, as amended, 47 U.S.C.
§402(a), hereby petitions for review of the Second Memorandum
Opinion and Order in ET Docket 92-9, Redevelopment of Spectrum
to Encourage Innovation in the Use of New Telecommunications
Technologies, FCC 94-303 (released December 2, 1994), 59 Fed.
Reg. 65501 (December 20, 1994) ("Second MO&O"), of the Federal
Communications Commission ("Commission") denying APCO's
Petition for Reconsideration of the Commission's prior
Memorandum Opinion and Order in ET Docket 92-9, 9 FCC Rcd 1943
(1994) ("MO&O"). Copies of these rulings are attached.

In 1992, the Commission adopted rules requiring existing
licensees of fixed point-to-point microwave facilities in

certain radio frequency bands to relinquish their licenses and relocate to other bands in order to accommodate providers of new telecommunications services. First Report and Order and Third Notice of Proposed Rulemaking in ET Docket 92-9, 7 FCC Rcd 6886 (1992). However, because of their special status, microwave facilities licensed to state and local government agencies were expressly exempted. In the MO&O, as affirmed by the Second MO&O, the Commission without notice reversed that exemption and subjected all state and local government agencies, even those using their microwave facilities for vital police, fire, emergency medical and other public safety communications, to mandatory relinquishment and relocation requirements.

The Commission's change in policy was arbitrary, capricious, unsupported by the record and contrary to law. The Commission failed to follow Congressional directives that public safety needs must be given priority in radio spectrum allocation decisions, failed to reconcile its action with prior decisions in related proceedings, and violated basic principles of administrative law.

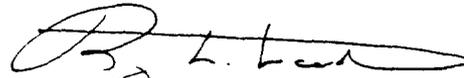
APCO, a non-profit membership organization of over 11,000 individuals involved in the management and operation of public safety communications facilities throughout the United States, participated in the proceedings below for which review is sought. Its interests and those of its members are directly aggrieved if the Commission's action is not enjoined, set

aside, annulled or suspended. Therefore, APCO seeks review of the Commission's action and requests that it be reversed.

Venue is proper in this Circuit pursuant to Title 28, Section 2343, of the United State Code. 28 U.S.C. §2343.

Respectfully submitted,


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February 10, 1995