DOCKET FILE COPY ORIGINAL

WILKES, ARTIS, HEDRICK & LANE
CHARTERED
ATTORNEYS AT LAW
1666 K STREET, N. W.
SUITE 1100
WASHINGTON, D. C. 20006-2866
(202) 457-7800

CABLE ADDRESS: WILAN
TELECOPIER: 202-457-7814

ANNAPOLIS, MARYLAND
BETHESDA, MARYLAND
FAIRFAX, VIRGINIA

WRITER'S DIRECT DIAL:
202-457-7329

RECEIVED
JUN 2 1995
FEDERAL COMMUNICATIONS COMMISSION

June 2, 1995

EX PARTE OR LATE FILED

BY HAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Permissible Ex Parte Presentations in PR Docket No. 92-235

Dear Mr. Caton:

Pursuant to Section 1.1206 of the Commission's rules, this is to inform the Commission that the attached letters from the International Association of Chiefs of Police, the Major City Chiefs Association, and APCO Project 25 were delivered today to Chairman Reed Hundt, with copies to each of the Commissioners, their legal assistants, and Wireless Telecommunications Bureau Chief Regina Keeney.

Please contact the undersigned if you have any questions.

Respectfully submitted,

WILKES, ARTIS, HEDRICK & LANE
Chartered

By: Robert M. Gurss

Attachments

No. of Copies rec'd 0+1
List A B C D E

PRESIDENT
CHIEF JOHN T. WHETSEL
Choctaw Police Department
Choctaw, Oklahoma

IMMEDIATE PAST PRESIDENT
CHIEF SYLVESTER DAUGHTRY, JR.
Greensboro Police Department
Greensboro, North Carolina

FIRST VICE PRESIDENT
CHIEF DAVID G. WALCHAK
Concord Police Department
Concord, New Hampshire

SECOND VICE PRESIDENT
CHIEF DARRELL L. SANDERS
Frankfort Police Department
Frankfort, Illinois

THIRD VICE PRESIDENT
CHIEF BOBBY D. MOODY
Covington Police Department
Covington, Georgia

FOURTH VICE PRESIDENT
CHIEF RONALD S. NEUBAUER
St. Peters Police Department
St. Peters, Missouri

FIFTH VICE PRESIDENT
DIRECTOR MICHAEL D. ROBINSON
Michigan State Police
East Lansing, Michigan

SIXTH VICE PRESIDENT
CHIEF BRUCE D. GLASSCOCK
Plano Police Department
Plano, Texas

INTERNATIONAL VICE PRESIDENT
CHIEF CONSTABLE
RONALD HADFIELD, QPM
West Midlands Police
Birmingham, England

TREASURER
ASSOCIATE COMMISSIONER
FOR ENFORCEMENT
G. H. (GIL) KLEINKNECHT
U.S. Immigration and
Naturalization Service
Washington, DC

GENERAL CHAIRMAN
DIVISION OF STATE ASSOCIATIONS OF CHIEFS OF POLICE
CHIEF LESLIE A. SHARROCK
Moorhead Police Department
Moorhead, Minnesota

GENERAL CHAIRMAN
DIVISION OF STATE AND PROVINCIAL POLICE
COMMISSIONER MAURICE J. HANNIGAN
California Highway Patrol
Sacramento, California

PARLIAMENTARIAN
DIRECTOR G.A. (JACK) PECORARO
Illinois Secretary of State Police
Springfield, Illinois

102ND ANNUAL
IACP CONFERENCE
OCTOBER 14-19, 1995
MIAMI, FLORIDA

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

515 NORTH WASHINGTON STREET • ALEXANDRIA, VA 22314-2357 • CABLE ADDRESS: IACPOLICE
(703) 836-6767 • 1-800-THE IACP • FAX: (703) 836-4543

EXECUTIVE DIRECTOR
DANIEL N. ROSENBLATT

DEPUTY EXECUTIVE DIRECTOR
EUGENE R. CROMARTIE

EX PARTE OR LATE FILED

RECEIVED

JUN 2 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

May 31, 1995

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Mr. Chairman:

I am writing to express our deep concern that the Commission not take action in its "spectrum refarming" proceeding (PR Docket 92-235) to undermine the critical interoperability goals of APCO Project 25.

The IACP has endorsed Project 25, a landmark federal, state, and local government effort to establish interoperable digital radio standards for public safety radio equipment. One of the goals of the project is to solve the problem of police officers who cannot communicate with each other when using radio equipment from different manufacturers. When police agencies cannot mix and match equipment from different vendors, the result is higher cost and serious lack of interoperability in the field. The Project 25 standard will alleviate those problems and improve our ability to protect the public.

The Project 25 standard is based on 12.5 kHz bandwidths, and requires backward compatibility to current 25 kHz and 30 kHz equipment. However, I understand that the Commission is currently considering a plan to limit type-acceptance by 2001 to equipment capable of operating at 6.25 kHz. Our concern is that this requirement will lead users and manufacturers to shift attention to 6.25 kHz prematurely, without consideration of equipment standards or interoperability. Little or no equipment will be available at 12.5 kHz, at least not at an affordable cost. Moreover, the 6.25 kHz equipment will not be backward compatible to current equipment. In addition there will no time to develop interoperability standards between vendors, as the very short time frame does not allow for standard-setting, equipment development, and product implementation.

On behalf of the IACP, I urge the Commission to adopt a refarming plan that accommodates, rather than undermines, the critical interoperability goals of Project 25. Specifically, the Commission should adopt the consensus plan supported by APCO and other private land mobile user groups.

Respectfully,

Harlin R. McEwen

Harlin R. McEwen
Chairman
IACP Communications Committee

Chief of Police
Ithaca Police Department
PO Box 6557
Ithaca, NY 14851-6557
Telephone 607-272-9973

cc: All FCC Commissioners
Ms. Regina Keeney
The Honorable Harold Rogers

MAJOR CITIES CHIEFS

Phoenix, Arizona
Los Angeles, California
Los Angeles Co., California
San Diego, California
San Francisco, California
San Jose, California
Denver, Colorado
Jacksonville, Florida
Metro-Dade, Miami, Florida
Atlanta, Georgia
Honolulu, Hawaii
Chicago, Illinois
Indianapolis, Indiana
New Orleans, Louisiana
Baltimore, Maryland
Baltimore Co., Maryland
Prince George's Co., Maryland
Montgomery Co., Maryland
Boston, Massachusetts
Detroit, Michigan
Minneapolis, Minnesota
Kansas City, Missouri
St. Louis, Missouri
Las Vegas, Nevada
Newark, New Jersey
Buffalo, New York
Nassau Co., New York
New York City, New York
Suffolk Co., New York
Cincinnati, Ohio
Cleveland, Ohio
Columbus, Ohio
Oklahoma City, Oklahoma
Tulsa, Oklahoma
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Memphis, Tennessee
Nashville, Tennessee
Austin, Texas
Dallas, Texas
Fort Worth, Texas
Houston, Texas
San Antonio, Texas
Salt Lake City, Utah
Washington, D.C.
Seattle, Washington
Milwaukee, Wisconsin

* * * * * * * * * * * *

Montreal, Canada
Toronto, Canada
Vancouver, Canada
Winnipeg, Canada

June 1, 1995

Hon. Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Hundt:

It has come to our attention that the FCC is about to finalize the spectrum refarming "proceeding"(PR Docket 92-235). It is our understanding that you will propose to go directly to 6.25 KHz channel spacing without the intermediate step of 12.5 KHz proposed by all public safety administrators and the Association of Public Safety Officials, APCO. This is an incredible proposal. The Federal government itself has chosen to make the 12.5 KHz step before going to 6.25 KHz.

This proposal is in conflict with the often stated Administration position of unifying and facilitating federal and local public safety communication. It also flies in the face of the cooperation and planning that went into project 25--a landmark federal, state and local government effort to establish interoperable digital radio standards. This project allows for a planned and economical transition to digital radios while also maintaining competition in the equipment procurement process. The International Association of Chiefs of Police has endorsed Project 25 and we support these goals.

The decision to move quickly to 6.25 KHz equipment and bypass 12.5 KHz will destroy more than five years of hand work, planning and inter-agency cooperation. We will lose the migration path and interoperability with the federal government agencies and other local public safety agencies. We believe this is poor public policy.

We urge the commission to adopt a refarming plan that will support and not destroy the critical goals of Project 25. We urge the

commission to adopt the consensus plan supported by the APCO, the IACP, the MCC and other private land mobile users.

Sincerely,

Matt L.. Rodriguez
Superintendent, Chicago Police Department
Chairman, Major Cities Chiefs Association

cc: Hon. Harold Rogers
FCC Commissioners
Ms. Regina Keeney

APCO PROJECT 25 - New Technology Standards Project

APCO Co-CHAIRMAN
STEVEN H. PROCTOR

INFORMATION TECHNOLOGY SERVICES
6000 State Office Bldg.
Salt Lake City, UT 84114
(801) 538-3525 • Fax (801) 538-3321

NASTD Co-CHAIRMAN
CRAIG JORGENSEN

PROJECT DIRECTOR
1398 Michigan Ave.
Salt Lake City, UT 84105
(801) 583-1099 • Fax (801) 581-9605

June 1, 1995

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street
Washington, D.C. 20554

RE: PR Docket 92-235

Dear Chairman Hundt:

The APCO Project 25 Steering Committee has recently become aware that the Federal Communications Commission (FCC) is considering a number of actions in its "spectrum refarming proceedings" that will have a significant negative impact on our voluntary APCO Project 25 Standards effort. Although the APCO Project 25 Steering Committee does not normally file on FCC matters, we feel we must make an exception in regards to the Commission's proposed refarming solutions. APCO Project 25 is a voluntary federal, state, and local government standards effort that began in the fall of 1989 and is projected to continue through 1998. Our focus has been to create voluntary, 12.5 kHz, narrow band standards that would meet the needs of public safety and improve upon our utilization of our finite spectrum resources. Ironically, even though our focus has been relevant to the FCC responsibilities and all our meetings have been open, the FCC has not chosen to actively participate in the process.

In August of 1995, the APCO Project 25 Steering Committee is scheduled to adopt Phase I of APCO Project 25, a complete suite of 12.5 kHz, digital, narrow band 12.5 kHz standards. Five manufacturers, Bendix King, E.F. Johnson, Motorola, Staniite and Transcrypt International, have also agreed to produce APCO Project 25-compliant, Phase I radio equipment. In October of 1995, we are scheduled to start APCO Project 25, Phase II. This phase will focus on very narrow band, 6.25 kHz or equivalent standards. However, that effort and the work we are now completing could be seriously jeopardized by the FCC's new proposal to mandate an accelerated path to 6.25 kHz technology through the elimination of Type Acceptance of 12.5 kHz radios in five years. The APCO Project 25 Steering Committee believes this proposed action is unwarranted and unfounded. We believe the proposal now under consideration could cost the taxpayers billions of dollars, while diminishing public safety's ability to provide efficient and effective land mobile communications services. In our opinion, a forced and accelerated migration process will only benefit a few special interests to the critical detriment of public safety and the taxpayers served.

During the last five and one-half years, the APCO Project 25 Steering Committee has carefully crafted a long-term migration path to very narrow band technology that fulfills the system and financial needs of public safety, while concurrently meeting the Commission's ultimate objective of attempting to obtain maximum utilization of our finite spectrum resource. Every effort has been made to develop technical standards reflecting the public safety users needs in an open and competitive environment. Unfortunately, if the Commission adopts the draft proposal that we understand is now being considering, it will emasculate our Phase I, 12.5 kHz, voluntary standards and virtually paralyze new 12.5 kHz product development.

The APCO Project 25 Steering Committee is deeply disturbed that the Federal Communications Commission is apparently unconcerned that the users, associations and the many manufacturers who support our effort have spent five years and over $20 million in an effort to build a competitive, user defined, advance technology migration path to the future. We find it distressing that the Commission would consider a proposal to replace five years of cooperative user-industry effort with a series of unsupported assumptions that the new technology we require will be there when we need it. It is inconceivable to the APCO Project 25 Steering Committee that a Federal agency, who has offered absolutely no support or policy direction to our APCO Project 25 effort, would now consider regulatory changes that will undermine the economic stability of the 5 companies who have already pledged to build APCO Project 25 radios. While the Commission may only see and focus on one radio manufacturer when they consider APCO Project 25, we see two of the largest radio manufacturers in America, one of the largest radio manufacturers in Australia, and two other smaller American firms; these firms who have dedicated their time and resources in an effort to support public safety. We also see the Federal Communications Commission eliminating with the stroke of a pen the hard work of two national associations and the hundreds of thousands of end users they represent who have collectively spent over five years, thousands of hours of labor and millons of dollars in an effort to make this nation safer. Finally, we see a Federal Communications Commission that is considering making a regulatory change that will virtually abandon numerous public safety agencies and at least seven states that have committed or are consideriing committing over $100 million to buy and install APCO Project 25 compatible systems.

The Commission must understand that artificially forcing the migration to 6.25 kHz or equivalent standards in five years will have the net effect of emasculating the voluntary APCO Project 25 work that has been done to date. Many public safety agencies will be forced to wait 10 to 12 years to replace obsolete and antiquated technology until they can be sure they are able to obtain products and systems that meet their needs on a competitive basis. Agencies will be buying "sole-source" products that have little or degraded interoperability during wide-area, man made or natural disasters. Companies that build radios will be forced to put resources that are now going to ensure competition and interoperability into new, premature product development. In short the APCO Project 25 Steering Committee believes the opportunity cost of adopting the proposal you are now considering is chaos in public safety land mobile communications and the industry that supports us.

Accordingly, the APCO Project 25 Steering Committee and the associations we represent would ask the Federal Communications Commission to carefully consider our concerns, which include, but are not limited to, the following:

1. From our perspective the existing staff proposal is an effort to apply a quick fix on a very complex problem. Spectrum problems in land mobile cannot be resolved in isolation of spectrum problems in other user areas.

2. The proposal, as we know it, fails to solve or address all the technical issues associated with forcing public safety to make the changes as proposed. Eliminating Type

Acceptance of 12.5 kHz equipment after five years amounts to a defacto mandate to force migration.

3. We don't believe the manufacturers who supply the technology we use will able to design or produce complete systems that fit public safety needs in the time frames proposed. Our collective experience as users and consumers clearly indicates the land mobile manufacturers have a tendency to promise the consumer much more than they can really deliver. In our opinion, the Commission's ill-founded support of unproven and untested contentions that our needs can be satisfied with new very narrow band technologies will be at the expense of the public safety community and their ability to effectively serve.

4. The Commission's proposal, as we understand it, fails to recognize the significant cost increase the public safety agencies across this nation will be forced to pay because of the FCC's proposal for ruthless technology changes.

5. We believe the Commission's current time table will force public safety and other communications system buyers to delay new system implementations until the end of this century, when we might see some indication of a market place, defacto standard occurring. In our opinion this pent-up demand will create an unstable and hostile market place forcing industry to push Research and Development to meet arbitrary Commission goals which may or may not meet public safety user needs. As a result of this attempt to establish artificial consumer demands, public safety consumers will be forced to buy over-priced, sole source technology in an artificially controlled market place.

6. The Commission's proposal, as we understand it, lacks a clear, cost-effective migration plan.

7. We believe the Commission will be required to further loosen established technical standards in order to facilitate the development of new very narrow band technology, thereby potentially increasing the probability of adjacent channel interference and the potential for fatal public safety communications system failures.

8. From our perspective, the Commission proposal is the equivalent of an "unfunded Federal mandate" that will have serious economic impact on public safety agencies throughout this nation. Therefore, we will take every step possible to ensure our concerns are understood and considered.

9. Our experience in APCO Project 25 indicates that we cannot expect to see a complete, public safety compatible APCO Project 25, narrow band, 12.5 kHz "system" before 1998, two years before the Commission is proposing to stop their Type Acceptance.

10. The Commission's proposal will force public safety consumers to carry the financial burden the Commission's ill-conceived federal mandate. The fact that you are not specifically forcing us to move to 6.25 kHz in five years is in our mind irrelevant, since you are creating a defacto mandate that makes the production and sales of 12.5 kKz equipment very unlikely. We believe your actions will start a never-ending process of public safety agencies having to replace entire systems, all at once with proprietary, sole-source products that will virtually destroy any opportunity for true inter-agency interoperability. By approving the proposal you now have, you will be replacing a well thought-out and well planned migration path to future technology with a proposal that has no linkage to past or future technology.

11. We strongly believe the current proposal is fatally lacking in a clear and defined migration path and, therefore, increases spectrum demand, not reduces it.

12. The APCO Project 25 Steering Committee supports a reasonable time period for the Commission's proposed migration to very narrow band technology. We do not believe, however, the proposal now being considered is representative of anything close to the time necessary.

We believe the proposal now under consideration is representative of a lack of a clear understanding of the needs of the public safety community. The end results of your failure to understand our needs will be reduced interoperability and increased users costs. It is obvious to us that the public safety communications problems associated with the bombing of the Oklahoma's Federal Building may have been lost on our esteemed colleagues in the Federal Communications Commission. Your efforts to force new technologies on public safety users will further dismantle interoperability and create greater confusion as public safety agencies attempt to deal with an ever-increasing number of natural and man-made disasters.

The APCO Project 25 Steering Committee strongly urges the Federal Communications Commission to reconsider the precipitous staff proposal in favor of one that is more reflective of the users needs.

Your early review and consideration of our concerns would be appreciated.

Sincerely,

Craig M. Jorgensen

Craig M. Jorgensen
Project Director

cc: All Commissioners
Regina Keeney, Chief, Wireless Telecommunications Bureau
APCO Project 25 Steering Committee

REFARM3