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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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In the Matter of )  
 )  
Amendment of Section 2.106 of )  
the Commission's Rules to ) ET Docket No. 95-18  
Allocate Spectrum at 2 GHz for )  
Use by the Mobile-Satellite )  
Service )

To: The Commission

**REPLY COMMENTS OF APCO**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following Reply to comments filed in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding to allocate a portion of the 2 GHz band for Mobile-Satellite Service ("MSS").

There are currently over 4,000 state and local government microwave facilities in the 2110-2200 MHz bands, providing critical communications links for law enforcement and other public safety agencies. APCO's initial comments explained that if a portion of these frequencies are to be reallocated for MSS, the MSS providers must be subject to current FCC rules governing the relocation of incumbent microwave licensees.<sup>1/</sup> Those rules are intended to ensure

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<sup>1/</sup> See Comments of APCO at 2-3; 47 C.F.R. §94.59.

that comparable replacement facilities will be provided to incumbents at no cost to taxpayers.

Only one party appears to have taken a contrary position. Personal Communications Satellite Corporation ("PCSAT") argues that relocation costs would be a burden on MSS providers and that incumbents should be forced to relocate with little or no compensation. APCO strongly opposes this suggestion by PCSAT which simply shifts the burden of relocation from the MSS providers to state and local governments.<sup>2/</sup>

APCO does not dispute that relocating all of the microwave paths in the 2110-2200 MHz band would be an extraordinarily expensive proposition. Indeed, for that and other reasons, public safety and other microwave users have long opposed reallocation of the 2 GHz bands. However, if a portion of the 2110-2200 band is to be reallocated for MSS, the new users, who propose to use this scarce spectrum for a revenue-generating commercial service, must bear all of the cost of relocating incumbent licensees. To relieve MSS of the cost of clearing the spectrum would be a multimillion dollar giveaway by the federal government, at the expense of

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<sup>2/</sup> COMSAT Corporation suggests in its comments that relocation of microwave users may not be necessary if the Commission adopts its frequency sharing proposal. APCO is not prepared to address the technical issues raised in COMSAT's proposal. However, if it is to be considered by the Commission, the proposal must be held to the highest level of scrutiny possible to ensure that critical public safety microwave systems do not face interference.

state and local governments and other private microwave users.

PCSAT suggests, nevertheless, that microwave users should be required to relocate within as little as five years with no compensation. This would impose huge costs on state and local government microwave systems, many of which were constructed in recent years to provide the "backbone" for new wide-area 800 MHz trunked radio communications systems. These microwave facilities have 10-20 years of useful life before replacement would otherwise be necessary. Few, if any, state and local governments have the resources for premature replacement of the backbone to their communications systems.

As an alternative, PCSAT recommends that MSS providers only be responsible for "the incremental cost of early retirement of equipment and duplication of its function at other frequencies." PCSAT Comments at 10. However, the "incremental cost" (which PCSAT does not define) of "early retirement" is, in fact, the full cost of the replacement.

In a confusing effort to refine its proposal, PCSAT states that "[i]f equipment has reached the end of its useful life, compensation should be due only if the incumbent can show that the cost of the equipment is greater than purchasing new equipment to operate in higher frequencies." Presumably, PCSAT intended to suggest that MSS providers pay only the amount in excess of replacing the facility on the same frequency. However, who is to define

"useful life." To the extent that PCSAT is alluding to IRS depreciation schedules, that has no bearing on tax-exempt state and local government operations. Furthermore, public safety communications equipment is often used for many years beyond any norm, usually because of a lack of funds. Any "forced" relocation of systems will necessary impose costs for which funds are not available, even if it is only the cost of simply replacing the facility on the same frequency.

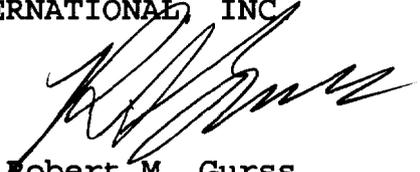
State and local government microwave licensees deserve to be fully compensated for the costs of relocating to new frequency bands. MSS providers, not state and local governments, should bear all of the financial burden. More importantly, there must be provisions to ensure that public safety communications capabilities are not diminished or disrupted in any way.

CONCLUSION

For the reasons discussed above and in APCO's initial Comments, if a portion of the 2110-2200 MHz band is reallocated for MSS, existing microwave licensees in the band must have the benefit of the relocation rules established in ET Docket 92-9.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY  
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