

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D. C. 20554

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JUN 30 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
 Petition for Rulemaking of ) RM- 8643  
 Pacific Bell Mobile Services )  
 Regarding a Plan for Sharing the )  
 Costs of Microwave Relocation )

To: The Commission

**REPLY COMMENTS OF APCO**

The Association of Public-Safety Communications  
 Officials-International, Inc. ("APCO"), by its attorneys,  
 hereby submits the following reply to comments filed in  
 response to the above-captioned Petition for Rulemaking.

APCO is the nation's oldest and largest public safety  
 communications organization, with over 11,000 worldwide  
 members involved in the management and operation of police,  
 fire, emergency medical, forestry-conservation, highway  
 maintenance, disaster relief, and other public safety  
 communications facilities. Many of these are state and  
 local government 2 GHz microwave facilities that provide the  
 backbone for critical public safety mobile radio systems.

APCO has long opposed the forced relocation of state  
 and local government microwave facilities out of the 2 GHz  
 band. To the extent that such relocation is mandated, it  
 must occur without disrupting the ability of public safety

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agencies to maintain state-of-the-art emergency communications facilities, and must not lead to any direct or indirect expense to taxpayers.

Negotiating relocation agreements will be a difficult and time-consuming process, especially for microwave licensees with paths that impact more than one PCS provider. Thus, APCO has no objection to reasonable proposals for cost-sharing among PCS licensees that facilitate and expedite negotiations in those situations.

However, APCO strongly objects to the recommendations of Southwestern Bell Mobile Systems ("SBMS") and The Sprint Telecommunications Venture ("Sprint") contained in their separate comments. Both parties claim that microwave licensees are somehow standing in the way of PCS deployment by asking for unreasonable terms in negotiations to relocate their microwave facilities. Yet, neither party provides any specific examples. Nor could they at this very early stage in the negotiation process.

Nevertheless, SBMS suggests that the Commission act now to limit payments to microwave licensees to actual costs, and that PCS licensees not be required to replace fully depreciated and outdated equipment with state-of-the-art digital equipment. Nor, according to SBMS, should they be required to replace an entire microwave system if only one path stands in their way. Aside from being premature, these proposals overlook the critical needs of public safety and other microwave licensees.

The purpose of the Commission's 2 GHz transition rules was to ensure that microwave licensees receive fully comparable facilities and that the PCS providers bear all of the direct and indirect expenses of the relocation. Rather than the FCC determining the nature and cost of the replacement facilities, the Commission wisely left those matters to negotiation between the PCS licensee and the microwave incumbent. The FCC will step in only if no agreement cannot be reached by the end of the transition period. To change that approach now and impose a vague "cost only" requirement would plunge the Commission into hundreds of disputes regarding issues such as the comparability of proposed replacement equipment and frequencies, and the direct and indirect costs to be reimbursed.

State and local governments have a responsibility to the public to ensure that police, fire, and other public safety agencies have the highest level of communications capability possible. Because of the critical nature of their operations, public safety agencies must build and maintain their communications systems to the highest specifications. Anytime equipment is replaced, whether because of age or FCC policy, it must be replaced with state-of-the-art equipment. You don't replace a 286 computer with another 286 computer, and you don't, in most cases, replace analog microwave equipment with analog microwave equipment.

The fact that existing microwave equipment may already be old or fully depreciated in some circumstances should have no bearing on its replacement. First, depreciation schedules have no relevance to tax-exempt state and local government licensees. Second, the cost to the microwave licensee of replacing relatively new equipment is identical to the cost of replacing older equipment. That total cost must be paid by the PCS providers, and not by taxpayer-supported public safety agencies.

Nor should a microwave licensee be barred from negotiating for replacement of multiple paths that are part of an integrated communications network. Replacing paths in a piecemeal approach is often inefficient and disruptive, and may reduce reliability of the system. This, as with other technical issues, should be left to arms-length negotiations between the microwave licensee and the PCS licensee.

SBMS and Sprint seem to object to the basic concept that PCS licensees may need to pay a premium to obtain more rapid clearing of the 2 GHz microwave band. The Commission's transition rules were intended to provide a reasonable period for negotiations and the extremely difficult and time-consuming process of identifying appropriate replacement frequencies, conducting engineering studies, constructing new facilities and sites, completing necessary tests and obtaining required government approvals.

If a microwave licensee can somehow expedite that process, there is no reason why a PCS licensee with an aggressive implementation schedule should not provide reasonable incentives for that to occur.<sup>1/</sup>

State and local governments are not seeking to profit from their microwave facilities. Their only concern is to ensure that the public continues to have the benefit of reliable communications systems for police, fire, and other public safety operations, and that they are not subject to any financial burdens in the microwave relocation process. How that is accomplished should be left in the first instance to arms-length negotiations. There should be no arbitrary limits on negotiations regarding the nature, extent, or cost of the replacement facilities.

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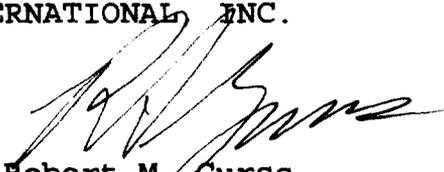
<sup>1/</sup> Contrary to Sprint's assertions, the PCS industry was well aware of the Commission's relocation rules prior to the auctions and presumably considered the difficulty of relocating microwave incumbents in their bidding strategies.

CONCLUSION

For the reasons discussed above, APCO urges that the Commission not take any action that would impose financial burdens on state and local government microwave licensees or limit their ability to maintain state-of-the-art public safety communications systems.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY  
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June 30, 1995

CERTIFICATE OF SERVICE

I, Jane Nauman, hereby certify that a copy of the foregoing "Reply comments of APCO" was sent this 30th day of June, 1995, by first-class mail, postage prepaid, to the following individuals at the addresses listed below:

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