

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	DOCKET FILE COPY ORIGINAL
)	
Implementation of Section)	
309(j) of the Communications)	PP Docket No. 93-253
Act - Competitive Bidding)	
)	
Amendment of the Commission's)	GN Docket No. 90-314
Cellular PCS Cross-Ownership)	
Rule)	
)	
Implementation of Sections 3(n))	
and 332 of the Communications)	GN Docket No. 93-252
Act Regulatory Treatment of)	
Mobile Services)	
)	
To: The Commission		

COMMENTS OF APCO

The Association of Public Safety-Communications Officials-International, Inc. ("APCO") hereby submits the following Comments in response to the Commission's Further Notice of Proposed Rulemaking, FCC 95-263, released June 23, 1995, concerning the ground rules and procedures for the upcoming C Block PCS Auction scheduled to commence on August 29, 1995.

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. APCO is the FCC-certified frequency coordinator for the Part 90 Police and Local Government Radio Services, and for all Public Safety Pool channels.

APCO's interest in this matter arises from its pending Petition for Review in the United States Court of Appeals for the District of Columbia Circuit of rules adopted in ET Docket 92-9 regarding the relocation of incumbent microwave systems operating in the 2 GHz bands, including the 1850-1990 MHz band which has been allocated for the Personal Communications Service (PCS).^{1/} Specifically, APCO's Petition seeks review of the Commission's decision to require state and local governmental public safety agencies to relinquish their 2 GHz licenses and relocate to other bands in order to accommodate new PCS licensees. See Memorandum Opinion and Order, ET Docket 92-9, 9 FCC Rcd 1943 (1994). This action without notice reversed the Commission's prior determination to exempt all state and local government public safety agencies from forced relocation. Numerous public safety microwave systems now operate in the C Block frequencies which will be subject to the upcoming auction.

^{1/} Association of Public-Safety Communications Officials International, Inc. v. FCC, Case No. 95-1104, filed February 10, 1995, United States Court of Appeals for the District of Columbia Circuit.

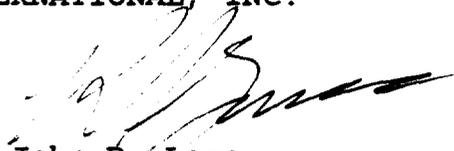
As set forth in the Notice, the Commission has tentatively concluded that the C Block PCS auction be conducted as expeditiously as possible ". . . so the businesses can get to market. . ." Notice, ¶9. APCO does not challenge that determination or seek a stay of the PCS licensing process pending the determination of its Petition for Review. However, in fairness to all interested parties, the Commission should make clear that the purchase of spectrum rights in the upcoming C Band auction process is subject to the outcome of APCO's pending Petition for Review. This is particularly important for C Block applicants, many of which are small businesses that may be unfamiliar with FCC rules and policies and/or unaware of APCO's pending appeal.

Specifically, APCO urges the Commission to put all interested bidders on notice that incumbent public safety microwave licensees in the 1850-1990 MHz band may not be required to relocate to other bands in the event that the pending appeal is determined adversely to the Commission. Only recently, the Commission took similar action regarding pending appeals taken by parties whose requests for pioneer preferences were denied. As these appeals could result ultimately in the displacement of certain A and B Block auction winners, the Commission warned these auction winners

that they ". . . bear the risk if petitioners are successful on appeal."^{2/} Certainly, the Commission should do no less with respect to prospective C Block bidders.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.

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^{2/} Wireless Co. LP, et al, DA 95-1412, released June 23, 1995, ¶14.