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202-457-7329

October 25, 1995

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OCT 25 1995

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

Re: WT Docket 95-157

Dear Mr. Caton:

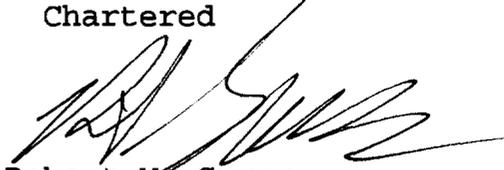
On behalf of the Association of Public-Safety Communications Officials-International, Inc. (APCO), enclosed herewith for filing with the Commission is a letter submitted to the Chief of the Wireless Telecommunications Bureau identifying an error in the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding.

Please contact the undersigned should you have any questions.

Respectfully submitted,

WILKES, ARTIS, HEDRICK & LANE,
Chartered

By:


Robert M. Gurss

Attorneys for Association of
Public-Safety Communications
Officials-International, Inc.
(APCO)

Enclosure

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by hand

Ms. Regina Keeney
Chief
Wireless Telecommunications Bureau
Federal Communications Bureau
2050 M Street, N.W. Room 5002
Washington, D.C. 20554

RE: WT Docket No. 95-157

Dear Ms. Keeney:

I am writing to note a serious error in the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding regarding its microwave relocation rules.

Quoting from Section 94.59 (f) of the Commission's rules, the Commission states in paragraph 79 of the Notice that the longer "public safety" negotiation period only applies to

Part 94 facilities currently licensed on a primary basis under the eligibility requirements of Section 90.19, Police Radio Service; Section 90.21, Fire Radio Service; Section 90.27, Emergency Medical Radio Service; and Subpart C of part 90, Special Emergency Radio Services, provided that a the majority of communication carried on those facilities are used for police, fire, or emergency medical services operations involving safety of life and property.

However, the Notice left out a critical sentence in the rule which states that

Licensees of other Part 94 facilities licensed on a primary basis under the eligibility requirements of Part 90, Subparts B and C, are permitted to request similar treatment upon demonstrating that the majority of communications carried on those facilities are used for operations involving safety of life and property.

WILKES, ARTIS, HEDRICK & LANE

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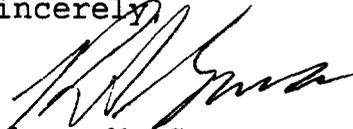
Ms. Regina Keeney
October 25, 1995
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Under this provision, a microwave facility licensed, for example, under the Subpart B Local Government Radio Service but used primarily for police communications can also qualify as a "public safety system" (assuming that it also meets the "majority of communications...." test). This is an important provision since many microwave systems used exclusively by police, fire, and/or emergency medical agencies were licensed under the Local Government Radio Service simply as a matter of convenience. Other microwave systems may be licensed under the Subpart B Forestry Conservation Radio Service and used for emergency communications related to forest fires and law enforcement activities on public lands.

The Commission should issue an erratum as soon as possible regarding the incomplete and inaccurate description of its own rules contained in the Notice. Otherwise, both public safety incumbents and PCS licensees will wrongly assume that the definition of "public safety" in the Notice is correct and act accordingly in ongoing negotiations.

While this letter should not be considered a substantive comment, a copy will be filed with the Secretary.

Sincerely,



Robert M. Gurss

Counsel for the Association of
Public-Safety Communications
Officials-International, Inc.

cc: Gerald P. Vaughan
Daniel Phythyon
Linda Kinney
Kathryn Hosford
Ruth Milkman