

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Replacement of Part 90 by Part 88 to Revise) PR Docket 92-235
the Private Land Mobile Radio Services)
and Modify the Policies Governing Them)

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FEDERAL COMMUNICATIONS COMMISSION
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To: The Commission

**OPPOSITION OF APCO
TO MOTION FOR STAY AND PETITION FOR CLARIFICATION**

The Association of Public-Safety Communications Officials-International (“APCO”) hereby submits the following Opposition to the Motion for Stay and the Petition for Clarification filed on January 14, 1998, by the International Municipal Signal Association and International Association of Fire Chiefs, Inc. (“IMSA/IAFC”) in the above-captioned “Refarming” proceeding.¹

APCO is the nation’s oldest and largest public safety communications organization. Most of its 13,000 individual members are state or local government employees involved in the management, design, and operation of police, fire, emergency medical, local government, highway maintenance, forestry conservation, disaster relief, and other public safety communications systems. APCO is a certified frequency

¹ APCO did not receive copies of the Motion and Petition until January 22, 1998, as both were improperly served on APCO’s past-president rather than to the undersigned counsel or APCO’s headquarters office.

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coordinator for the Public Safety Pool frequencies below 512 MHz, and is the sole coordinator for all Police channels and for all 800 MHz Public Safety channels.

On March 12, 1997, the Commission released its Second Report and Order in this proceeding and consolidated the Police, Fire, Emergency Medical, Forestry Conservation, Highway Maintenance, Local Government, and Special Emergency Radio Services into a single Public Safety Pool.² In general, all public safety entities became eligible for all Public Safety Pool channels. However, the Commission also indicated that frequency coordinators would retain their sole coordination responsibility for channels that had previously been in specific radio services. Thus, for example, fire departments became eligible for former "police" channels, but had to obtain approval from the "police coordinator" and vice versa. The principal exception is the former Local Government channels, which can now be coordinated by any of the certified public safety coordinators.³

Now, nearly a year after the Second Report and Order, IMSA/IAFC is arguing that the Commission failed to designate it as the sole coordinator for eight frequencies in the 450 MHz band that had been in the Emergency Medical Radio Service (which IMSA/IAFC had coordinated). However, IMSA/IAFC fails to note that all other 450 MHz frequencies were made available for coordination by any public safety coordinator, and that the specific frequencies at issue had also been used for certain Local Government

² Second Report and Order in PR Docket 90-235, FCC 97-61 (released March 12, 1997) ("Second Report and Order").

³ Ironically, it was IMSA/IAFC which advocated the use of multiple coordinators for the 450 MHz Local Government channels.

purposes.⁴ Thus, APCO does not agree that the Commission's coordinator designation for these channels is incorrect.

More important than the coordinator designation, however, is IMSA/IAFC's unsupported and plainly incorrect statement that "the Commission did not eliminate the specified uses for each respective frequency" and, therefore, that "frequencies that were allocated exclusively for the provision of emergency medical services must still be used in that manner."⁵ Contrary to IMSA/IAFC's suggestion, the Commission did clearly intend in the Refarming proceeding to "eliminate the specified uses for each respective frequency," including EMRS, Police, Fire, Forestry-Conservation, and Highway Maintenance channels. Why else would the Commission consolidate the specific radio services into a single Public Safety Pool?

Under IMSA/IAFC's approach, a police department can obtain a former EMRS channel, but only if it uses it for emergency medical services, and a fire department can obtain a former police channel, but only if it uses it for law enforcement purposes. Surely that is not what the Commission intended. Indeed, even the interservice sharing rules that existed prior to the creation of the Public Safety Pool allowed any public safety radio service channel to be used for any public safety use under certain conditions and with approval of the frequency coordinator.⁶ Under the new rules, coordinators still have an important role to ensure compatible use, but only from a technical interference perspective. IMSA/IAFC cannot reject an application from a police department merely

⁴ See 47 C.F.R. §90.27(b)(22) (1996).

⁵ Motion for Stay at 4.

⁶ 47 C.F.R. § 90.176 (c) (1996).

because the applicant intends to use the channel for police activity.⁷ Unfortunately, it appears from the Motion for Stay and Petition for Clarification that IMSA/IAFC has been operating under a contrary interpretation of Commission rules and policies.

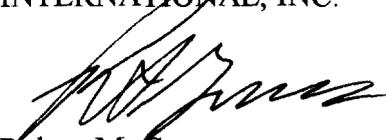
CONCLUSION

Therefore, for the reasons discussed above, APCO opposes the Motion for Stay and Petition for Clarification of IMSA/IAFC.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
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⁷ In any event, it is up to the Commission, not a frequency coordinator, to reject an application based on eligibility or use factors.

CERTIFICATE OF SERVICE

I, Robert M. Gurss, hereby certify that a copy of the foregoing "Opposition of APCO" was served this 3rd day of February, 1998, by first class mail, postage pre-paid, to the following individuals at the addresses listed below.

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