

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
ACD TELECOM LLC Request for Certification as a) PS Docket No. 14-148
Part 90 Frequency Coordinator)
)

**COMMENTS OF INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION, THE
FORESTRY CONSERVATION COMMUNICATIONS ASSOCIATION, AND THE
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS**

The International Association of Fire Chiefs (“IAFC”), Forestry Conservation Communications Association (“FCCA”), and the International Municipal Signal Association (“IMSA”) (together “Commenters”), by their attorneys and pursuant to the Public Notice issued by the Federal Communications Commission (“FCC” or “Commission”)’s Public Safety and Homeland Security Bureau (“Bureau”) on September 8, 2014,^{1/} hereby submit their comments in response to the above-referenced request by ACD Telecom, LLC (“ACD”) for certification as a coordinator for Part 90 public safety frequencies.^{2/} As demonstrated below, ACD fails to satisfy the criteria outlined by the Commission to be certified as a frequency coordinator. Accordingly, the ACD Request should be denied.

I. INTRODUCTION AND BACKGROUND

FCCA is a non-profit national trade organization that has, for over six decades, coordinated the use of frequency assignments within the Forestry Conservation spectrum. It

^{1/} See *Public Safety and Homeland Security Bureau Seeks Comment on Requests of ACD Telecom, LLC, to be Certified as a Part 90 Frequency Coordinator of Public Safety Frequencies in the VHF and UHF Bands Below 512 MHz, 700 MHz Narrowband, 800 MHz NPSPAC and 800 MHz Public Safety Category Frequencies*, Public Notice, PS Docket No. 14-148, DA 14-1292 (rel. Sept. 8, 2014) (“Public Notice”).

^{2/} See *ACD Telecom, LLC Request for Certification as a Frequency Coordinator for PLMR VHF, UHF, 700 MHz, 800 MHz Public Safety Frequencies*, PS Docket No. 14-148 (dated July 25, 2014) (“ACD Request”).

makes available a full range of radio communications services for all public safety entities in addition to forestry conservation agencies, including related police, fire, and emergency medical functions of these agencies, operating in all 50 states.

IMSA is a non-profit organization dedicated to the development and use of electric signaling and communication systems in furtherance of public safety. IMSA's approximately 12,000 members include representatives of Federal, state, county, city, township, and borough governmental bodies, as well as representatives of governmental bodies of foreign nations. IMSA works to improve the efficiency, installation, construction, and maintenance of public safety equipment and systems by increasing the knowledge of its members in several diverse technical fields, including public safety communications.

The 10,000-member IAFC is a professional association representing the leaders and managers of America's fire and emergency service. The IAFC represents the leadership of more than 1.2 million firefighters and emergency responders. IAFC members are the world's leading experts in firefighting, emergency medical services, terrorism response, hazardous materials spills, natural disasters, search and rescue, and public safety legislation. Since 1873, the IAFC has provided a forum for its members to exchange ideas and uncover the latest products and services available to first responders.

Each of FCCA, IMSA, and IAFC is a certified coordinator for frequencies specified in Section 90.20(c) of the FCC's rules, and are among the recognized frequency coordinators for the Public Safety Pool frequency assignments.^{3/} The Public Notice seeks comment on ACD's request for certification as a coordinator for public safety frequencies under Part 90 of the

^{3/} See 47 C.F.R. § 90.20(c).

Commission's rules.^{4/} Because the Commenters are frequency coordinators recognized by the FCC and seek to preserve the integrity of the frequency coordination process, particularly with respect to public safety channels, they are pleased to have this opportunity to submit the following comments.

II. COMMENTS

Approving the ACD Request would be inconsistent with the Communications Act of 1934, as amended (the "Act"). Section 332 of the Act permits the FCC to utilize frequency coordination committees (*i.e.*, frequency coordinators) for coordinating and assigning frequencies in the private mobile radio services.^{5/} In implementing this authority, Congress "encourage[d] the Commission to recognize those frequency coordinating committees for any given service which are most representative of the users of that service."^{6/} As the Public Notice and ACD recognize, the Commission implemented the provisions of Section 332 of the Act by, in 1986, establishing criteria for certifying frequency coordinators in the Part 90 Private Land Mobile Radio ("PLMR") services.^{7/} While the Commission evaluates several criteria to determine whether an entity is qualified to be a frequency coordinator,^{8/} consistent with Congressional directive, the first and primary factor of the FCC's analysis is whether the potential frequency coordinator is representative of the users of the frequencies it proposes to

^{4/} See Public Notice at 1; ACD Request at 1-2.

^{5/} See 47 U.S.C. § 332(b)(1).

^{6/} *Frequency Coordination in the Private Land Mobile Radio Services*, Report and Order, 103 F.C.C.2d 1093, ¶ 11 (1986) ("1986 Frequency Coordination Order") (internal citation omitted).

^{7/} See Public Notice at 1; *1986 Frequency Coordination Order*.

^{8/} See *1986 Frequency Coordination Order* ¶ 70.

coordinate.^{9/} ACD has not demonstrated that it is representative of the users of the service it seeks to coordinate and therefore cannot be certified as a frequency coordinator.

In determining “representativeness,” the FCC typically considers whether an entity has members that are representative of the users it seeks to coordinate or whether the entity demonstrates that it understands the unique needs of the user community. For instance, the Commission found that Associated Public Safety Communications Officers, Inc. was representative of public safety users because it had over 6,000 members comprised of public safety communications officials, engineers, supervisors, and technicians that were employed by tax-supported agencies at all levels of government, and by organizations supplying these agencies with goods and services.^{10/} The Commission also noted, in determining representativeness for the Special Emergency Radio Service, that IMSA “has shown particular sensitivity to special emergency needs in the past.”^{11/}

ACD states that it is an engineering and management telecommunications consulting firm specializing in public safety communications.^{12/} ACD adds that it offers a comprehensive range of radio communications design and implementation expertise to the public safety communications community and that its principal, Ali Shahnam, has “a strong background in public safety wireless system design.”^{13/} While ACD may have experience in public safety

^{9/} See *id.* ¶ 98.

^{10/} See *id.* ¶¶ 71, 73; see also *id.* ¶ 74 (determining that FCCA was representative of the Forestry Conservation Radio Service because its membership “is open to any agency that is eligible in the radio service”); *International Association of Fire Chiefs, Inc., and International Municipal Signal Association; Informal Request for Certification as a Frequency Coordinator for PLMR 800 MHz and 900 MHz Public Safety Frequencies and American Association of State Highway and Transportation Officials; Informal Request for Certification as a Frequency Coordinator for PLMR 800 MHz Public Safety Frequencies*, Order, 16 FCC Rcd. 14530, ¶ 17 (2001) (“2001 IAFC/IMSA/AASHTO Order”).

^{11/} 1986 Frequency Coordination Order ¶ 77.

^{12/} See ACD Request at 1.

^{13/} See *id.*

system design, that does not make it representative – the key element for qualification as a frequency coordinator. To the contrary, the FCC has specifically rejected an entity’s experience in system design as sufficient to demonstrate that it is representative of the users of the frequencies it proposes to coordinate.^{14/}

Whether ACD has a particular sensitivity to public safety needs is also questionable. ACD demonstrates that it is a private company, without any members, that focuses on providing consulting services for profit. Although ACD may target those commercial services to public safety entities, its main motive is to generate revenue, not represent users. The Commission previously rejected requests by private entities to treat their commercial services, such as “field studies,” the same as frequency coordination services.^{15/} ACD’s request – to convert its existing engineering services into frequency coordination – is the same, and the Bureau should therefore reach the same result here.

ACD argues that the meaning of “representativeness” for frequency coordinators has evolved to promote competition and “to essentially require that the entity seeking coordinator status has *substantial familiarity* with the operations and needs of Part 90 licensees and applicants.”^{16/} This assertion is unsupported. The Commenters recognize that, since the adoption of the *1986 Frequency Coordination Order*, the Commission has found that allowing additional entities to provide frequency coordination services could serve the public interest.^{17/}

^{14/} See, e.g., *1986 Frequency Coordination Order* ¶ 98 (rejecting a request for certification filed by Comp Comm, which used its experience in system design as support for its request).

^{15/} See *id.* ¶¶ 62-69 (declining to allow applicants to submit field studies in lieu of utilizing the services of a frequency coordinator, as proposed by the National Mobile Radio Association, Motorola Inc., Teletch, Inc., and E.F. Johnson Co.).

^{16/} ACD Request at 3 (*emphasis added*).

^{17/} See, e.g., *Industrial Telecommunications Association; Informal Request for Certification as a Frequency Coordinator for Part 90 929-930 MHz Paging Frequencies and PLMR Special Emergency Frequencies Below 512 MHz*, Order, 19 FCC Rcd. 7614, ¶¶ 4-7 (2004) (“2004 ITA Order”); *Informal*

However, the Commission has also specifically cautioned that its policy of certifying multiple coordinators is “not a rejection of its requirement that each coordinator be representative of the users of the radio service in which it was certified”^{18/} and that the “integrity of the radio communications in the Public Safety Pool must be maintained without fail.”^{19/} Allowing “substantial familiarity” to constitute “representativeness” would contravene these policies. ACD may have substantial familiarity with public safety operations, but unless it is representative of public safety entities, ACD will be motivated more to maximize its own profits than to preserve the integrity of public safety communications.

ACD further attempts to demonstrate its “representativeness” by contending that it was “hired as a sub-contractor to IMSA’s prime contractor (2001 to 2012) and then [The American Association of State Highway and Transportation Officials’ (“AASHTO”)] prime contractor to perform frequency coordination services (2012 to present) on behalf of these organizations in the 700/800 MHz bands for ALL public safety agencies throughout the United States and its territories.”^{20/} ACD’s claims, however, are misleading. To the Commenters’ knowledge and belief, ACD was hired by IMSA’s prime contractor to provide engineering services and

Request for Certification as a Frequency Coordinator in the PLMR 800 MHz and 900 MHz Bands, Order, 16 FCC Rcd. 8436, ¶ 9 (2001); *American Mobile Telecommunications Association, Inc. and American Trucking Associations, Inc.; Petition for Transfer of Frequency Advisory Committee Certification*, Memorandum Opinion and Order, 16 FCC Rcd. 12416, ¶ 2 (2001) (“2001 AMTA/ATA Order”); *2001 IAFC/IMSA/AASHTO Order* ¶ 5.

^{18/} 2004 ITA Order ¶ 5.

^{19/} 2001 IAFC/IMSA/AASHTO Order ¶ 6; see also *Industrial Telecommunications Association; Informal Request for Certification to Coordinate the Power Radio Service, Railroad Radio Service, and Automobile Emergency Radio Service under Part 90 of the Commission’s Rules*, Order, 19 FCC Rcd. 21664, ¶¶ 4, 10 (2004) (noting that “maintaining the integrity of spectrum used for such public safety purposes is extremely important”) (internal quotations and citation omitted).

^{20/} ACD Request at 4.

frequency selection advice.^{21/} In any case, neither ACD nor IMSA's prime contractor were granted authority to independently perform frequency coordinator functions. IMSA at all times fulfilled its frequency coordinator obligations; it remained the final decision-maker on all frequency coordination processes and retained ultimate control over the frequency coordination function. The Commenters believe the same is true of AASHTO's relationship with ACD. Contrary to ACD's claims, it did not perform the "same functions" as the certified frequency coordinators, and simply saying so does not make it true.^{22/}

ACD's claim that it has experience as a "frequency coordinator" is even belied by those parties attempting to support its request. For instance, the Clay County Public Safety Department reports that ACD supplies "technically detailed and proficient advice to the County's public safety land mobile radio clients." Ludwigs Corner Fire Company likewise points out that ACD is knowledgeable about regulatory processes and keeps public safety agencies well informed, while Brandywine Hospital observes that ACD is able to explain technical and regulatory issues in a manner that is easy to understand. These are all valuable skills, but they do not constitute qualification to be a frequency coordinator.

An entity which has performed subcontracting services for a frequency coordinator does not become eligible to itself be a frequency coordinator through its services. In addition to maintaining its status as representative, a frequency coordinator – and not engineering subcontractors – is responsible for maintaining the other characteristics that make it eligible to be a coordinator. Contractors perform a limited role and exclusively at coordinators' direction. In

^{21/} See Declaration of Douglas M. Aiken (Oct. 7, 2014). IMSA has no direct knowledge of the details of the contractual relationship between its prime contractor and ACD.

^{22/} See ACD Request at 9 ("ACD is clearly qualified to provide [frequency coordination] services as evidence by the fact that it has performed these same functions for more than a decade under contract with currently certified coordinators.").

supporting the use of engineering firms by frequency coordinators to provide support and technical analyses, the Commission emphasized that frequency coordinators must maintain ultimate control over the frequency coordination process.^{23/} The Commission therefore recognized that frequency coordinators play a distinct role from their sub-contractors. If the Bureau were to now allow ACD to conflate its experience with that of actual frequency coordinators, any third-party entity that performed work for a frequency coordinator and established “expertise” could request and be certified as a frequency coordinator. The Bureau should not jeopardize public safety communications in that manner.

^{23/} See 2001 AMTA/ATA Order ¶ 14; see also Letter from Ralph A. Haller, Chief, Private Radio Bureau, FCC, to Susan Dobronski, Teletech, Inc., attached to, *Teletech, Inc. Petition to Decertify IAFC, IMSA and SEFCC as Frequency Coordinators in the Fire and Special Emergency Radio Services*, Order, 5 FCC Rcd. 2887 (1990) (“A coordinator, in summary, has wide latitude to contract all or some of its coordination activity to a contractor, so long as it maintains reasonable oversight and control.”).

III. CONCLUSION

For the reasons discussed above, the Commenters respectfully request that the Bureau expeditiously deny the ACD Request.

Respectfully submitted,

/s/ Russell H. Fox

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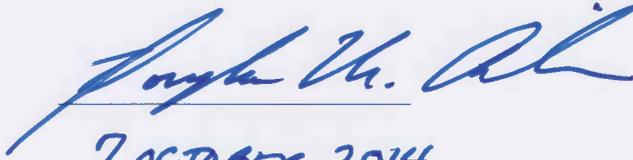
Dated: October 8, 2014

Declaration of Douglas M. Aiken

I hereby declare under penalty of perjury that:

- 1) I am the Deputy Executive Director of the International Municipal Signal Association (“IMSA”);
- 2) I have generally reviewed the attached Comments of the International Association of Fire Chiefs, Forestry Conservation Communications Association, and the International Municipal Signal Association;
- 3) I have personal knowledge of the facts asserted in the attached Comments that relate to IMSA and its frequency coordination practices; and
- 4) To the best of my knowledge, information, and belief, those facts are complete, true and accurate.

Signature:



Date:

7 OCTOBER 2014