

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

<b>In the Matter of</b>	)	
	)	<b>PS Docket No. 14-148</b>
<b>Request for Certification as a Frequency</b>	)	
<b>Coordinator for PLMR VHF, UHF, 700 MHz</b>	)	
<b>800 MHz Public Safety Frequencies</b>	)	

**To: The Public Safety and  
Homeland Security Bureau**

**REPLY COMMENTS OF ACD TELECOM, LLC**

ACD Telecom, LLC, (“ACD”) is pleased to reply to the Comments submitted in response to its request for certification as a Frequency Coordinator for VHF, UHF, 700 MHz, 800 MHz Public Safety Part 90 Private Land Mobile Radio (“PLMR”) Services (“Request”).

At the outset, ACD wishes to emphasize that it is not seeking to disrupt the current coordination process, particularly from the standpoint of users that are satisfied with their current coordinator(s). ACD recognizes that frequency coordination has immense benefits for users as well as the FCC. ACD is not interested in negatively impacting that in any way. Once certified by the FCC, ACD will be another option for users, but no user will be required to use ACD’s services. Even for users that choose to remain with the current coordinator, however, ACD does expect that new competition will reduce costs and coordination times while at the same time increasing the level of customer service and encouraging innovation in the coordinator-customer relationship.

ACD strongly believes that the record in this proceeding supports grant of its Request.

**A. THE COMMENTS CONFIRM ACD’S TECHNICAL EXPERTISE AND COORDINATION CAPABILITIES**

Two things are readily apparent from the Comments. First, ACD’s Request is strongly supported by a broad representative sample of public safety users. Supporters range from county level fire departments and emergency dispatch centers to statewide agencies and even other commercial entities. These comments reflect that ACD is fair, honest and very knowledgeable, with an extensive background in public safety communications. These commenters note ACD’s very high level of customer service, integrity and promptness in completing projects.

Second, the opposition to ACD’s Request is unrelated to ACD’s technical knowledge, public safety background and experience, background in FCC rules and Part 90 regulations, or highly relevant frequency coordination experience in the public safety bands, as delineated in FCC Docket 83-737. The Public Safety community is well aware of ACD’s strong experience in these areas, which includes:

- When Mr. Shahnam, ACD Vice President, was Director of APCO AFC Inc., he worked with the FCC’s Gettysburg staff to establish an Electronic Batch Filing (EBF) process between the Commission and APCO. This was the first of its kind among public safety coordinators;
- On behalf of APCO, Mr. Shahnam worked with the FCC to establish an Memorandum of Understanding (“MOU”) between APCO and the Commission to address and resolve post-licensing conflicts and interference issues;
- Mr. Shahnam wrote the generic NPSPAC plan for the remaining unfinished regions in order to meet FCC mandated deadline;
- Mr. Shahnam worked with the Commission to establish nationwide interoperability channels in VHF and UHF bands;
- Mr. Shahnam was APCO Headquarters’ official representative to all P25 meetings and committees and a member of U.S. Telecommunication Radio Advisor Committee – ITU-R;
- ACD was active and involved in the Public Safety National Coordination Committee (NCC); and
- ACD has developed three 700 MHz regional plans.

Perhaps most importantly, ACD and its owners have provided spectrum management and coordination services for the past 25 years. Much of that has been as contractors performing

actual coordination services for coordinators certified by the FCC. As a result, the commenters in this proceeding have first-hand knowledge of ACD's coordination capabilities. If any coordinator believed that ACD's capabilities were subpar, they had every opportunity to mention it. None did. ACD clearly has established that it is technically capable of providing coordination services.

What few issues are raised regarding ACD's qualifications are unbelievable given ACD's history. For example, AASHTO claims that ACD is not experienced and knowledgeable enough to perform frequency coordination in the Part 90 bands. This is an incredible claim given that AASTHO entrusted ACD to perform frequency coordination on its behalf in the 800 MHz bands and 700 MHz bands as sub-contractor to AASHTO's prime contractor (RadioSoft) for the past two years. ACD received no complaints from AASHTO regarding its services. IMSA claims ACD did not perform frequency coordination on its behalf, which ignores the reality that IMSA invoiced applicants over \$2,500,000.00 worth of fees from frequency coordination work performed by ACD over a number of years. ACD performed all aspects of the frequency coordination process, from interfacing with users, to circulating applications on 5-day notice between coordinators, to filing applications with the Commission. ACD is clearly qualified to coordinate in the Part 90 bands.

## **B. ACD SATISFIES THE REPRESENTATIVENESS CRITERIA**

Instead of taking issue with ACD's technical expertise, commenters largely focus on whether ACD is "representative" of the public safety user class. ACD is fully representative of the users of the public frequencies it wishes to coordinate. Although the Commission has "repeatedly stated that the most important criterion"<sup>1</sup> in selecting and certifying a frequency

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<sup>1</sup> Federal Communication Commission, Decision, Private Land Mobile Radio Services (Frequency Coordination), 103 F.C.C.2d 306, ¶ 98 (1986) [hereinafter Frequency Coordination Decision].

coordinator is representativeness, the Commission has never established objective factors for satisfying the requirement. Instead, the Commission has stated that to become certified as a frequency coordinator, a potential coordinator satisfies the representativeness criterion by showing that it is “endorsed by a broad cross section of the users in the pool they wish to coordinate.”<sup>2</sup> ACD clearly satisfies this requirement as seen from the large number of endorsements it has received in this proceeding to date.

Comments opposed to ACD, however, ignore this broad support in favor of self-created requirements that are ungrounded in Commission precedent. For example, AASHTO and APCO mistakenly substitute an entity’s organizational structure for the representativeness criteria by criticizing ACD for not being an association or being comprised of members.<sup>3</sup> However, these are not Commission requirements, and AASHTO and APCO offer no support for their positions that these are even factors to be properly considered by the Commission. In fact, there is no precedent establishing that a frequency coordinator must be a non-profit trade association, or hold membership in the Land Mobile Communications Council (“LMCC”).<sup>4</sup> Accordingly, the fact that ACD is a commercial entity is irrelevant to whether ACD meets the representative criterion.

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<sup>2</sup> *Id.*

<sup>3</sup> See Comments of the American Association of State Highways and Transportation Officials, PS Docket No. 14-148, at \* 4 (Oct. 8, 2014) (“AASHTO considers certain common elements and activities to constitute ‘representativeness’ for an entity. For example, such organizations are membership or professional organizations made up of individuals or industry stakeholders.”); Comments of APCO, PS Docket No. 14-148, at \*5 (Oct. 8, 2014) (“ACD does not even attempt to meet the ‘representativeness’ requirement . . . . [A]s ACD is not an association and obviously has not members of any type.”).

<sup>4</sup> Upon certification, ACD plans to apply to become a member of LMCC to enable ACD to work closely with other frequency coordinators.

Claims that ACD will be motivated to maximize its own profits rather than “preserve the integrity of public safety communications”<sup>5</sup> are a red herring. The position of APCO, AASHTO, FCCA, and IMSA will only serve to maintain the status quo and limit competition to the benefit of current coordinators.

The Commission has constantly revisited its policies and procedures to promote competition for more efficient use of the spectrum and lower costs. These changes are, but not limited to encouraging auctions, incentive auctions, secondary markets and allowing public safety leasing and/or purchasing of commercial spectrum.<sup>6</sup> At the same time, consolidation among the public safety coordinators, such as the combination of the frequency coordination services of IMSA, IAFC, and FCCA into a new non-profit corporation named the Public Safety Coordination Associates (“PSCA”), has reduced options for users.

Not only does ACD meet the representativeness requirement, it stands by its position that the meaning of representativeness has evolved over time, which is supported by actions such as the Commission’s consolidation of the pools and the fact that current public safety frequency coordinators are certified in areas in which they do not (in the traditional sense) represent those frequency users. Notably, AASHTO, APCO, FCCA, and IMSA are certified coordinators for 800 MHz General Category and SMR Pools. It’s difficult to connect their interpretation of representativeness in this proceeding to their coordination of those radio services. In fact, AASHTO, IAFC, and IMSA have stated in an earlier proceeding that they do not meet the definition of representativeness they seek to apply to ACD even when they are viewed in the

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<sup>5</sup> Comments of International Municipal Signal Association, The Forestry Conservation Communications Association, and the International Association of Fire Chiefs, PS Docket No. 14-148, at \*5 (Oct. 8, 2014).

<sup>6</sup> In the Part 101 bands, any entity can perform frequency coordination services and competition has produced numerous competitors offering fast, low cost services.

context of the broad spectrum of public safety users that are eligible to use their coordination services.<sup>7</sup> Those in opposition to ACD's petition believe that ACD is conflating the representative requirement with ACD's substantial familiarity with the operations and needs of public safety applicants. ACD strongly disagrees.

ACD's public safety experience only bolsters its argument that it meets the representative criterion. There is neither a legal nor logical reason to deny public safety agencies the benefit of increased competition as long as the criteria for certification are met.

**C. MANY OF THE COMMENTS IN OPPOSITION TO ACD ARE INACCURATE AND MISLEADING**

Although ACD believes that the legal arguments proposed by APCO, AASHTO, IMSA and IAFC are not grounded at all, ACD is even more concerned with those Comments that contain misleading or inaccurate information. Specifically, Mr. William Carter's Comments contain a number of inaccurate conclusions and inappropriately misleading statements.

Mr. Carter's statement "the only group I see represented in favor of ACD is its customers" is demonstrably wrong. Of the 15 public safety agencies that have filed comments in support of ACD's Request, only 7 are ACD clients. Additional comments in support were filed by three consultant firms and a former APCO local advisor. Most of these commenters are APCO members and not ACD clients.

Mr. Carter also claims that the various regional 800 MHz and 700 MHz planning committees have performed frequency pre-coordination and pre-planning assistance for many years at no charge. It's not clear whether Mr. Carter is insinuating that ACD would somehow

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<sup>7</sup> See Comments of AASHTO, IAFC, and IMSA, WT Docket No. 02-285, at \*8 (Dec. 5, 2002) ("AASHTO, IAFC, and IMSA respectfully submit that the Public Safety coordinators *are not representative on a cross-pool basis.*") (emphasis added). For example, these entities can coordinate public safety frequencies for any public safety eligible, not just for their members.

undercut this process, but that idea could not be further from the truth. ACD's principal, Ali Shahnam, was one of the authors of the Generic NPSPAC plan in 1992, participated in the NCC activities (700 MHz proceedings) and has written and developed 700 MHz regional plans for three regions. ACD is very familiar with the regional planning process, strongly recognizes and respects the RPCs' input and participation, and their responsibilities and involvement in the pre-coordination process. By no means is ACD proposing any change to the regional planning process.

Mr. Carter next tries to impugn ACD's integrity stating that ACD provides consulting services and questioning whether ACD will suspend such services, implying that such activities present a conflict of interest. Mr. Carter asks how ACD proposes to provide neutral and unbiased frequency coordination. The full and complete response is that ACD will provide first in time coordination according to the same standards used by current public safety coordinators. As previously stated, ACD has been performing frequency coordination on behalf of two of the certified frequency coordinators for 13 years. The FCC has never reported any conflict of interest complaint regarding ACD's services.

In fact, several coordinators provide services in addition to frequency coordination. For example, APCO provides engineering services to its customers. Several of APCO's local frequency advisors, including some filing comments here, themselves provide consulting services.<sup>8</sup>

As is apparent from the record, several commenting parties appear to have copied and pasted excerpts of Mr. Carter's erroneous statements into brief one or two line "AstroTurf" style

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<sup>8</sup> See, e.g., <http://www.linkedin.com/pub/william-carter/9/5b/54b>; <http://www.linkedin.com/pub/emery-reynolds/4/319/395>.

comments. Most of these comments are submitted by individuals, not by their respective organizations. ACD believes they should be disregarded by the Commission.

**D. CONCLUSION**

ACD meets the letter and the spirit of the qualifications for certification as a Public Safety coordinator. ACD has broad support from a cross-section of public safety users, has the relevant experience and the demonstrated technical expertise, resulting from performing coordination services for years for two of the currently certified public safety Coordinators. ACD urges the FCC to grant its Request.

**ACD TELECOM, LLC**

By:     /s/ Alireza Shahnami    

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