

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:)
)
Wireless Telecommunications Bureau and)
Public Safety and Homeland Security Bureau)
Seek Comment on Request of Engineers) WP Docket 14-235
Frequency Advisory Committee, LLC to be)
Certified as a Part 90 Frequency Coordinator)
Flexibility)
)

**COMMENTS OF
THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these Comments in response to the Commission’s Public Notice in the above-captioned proceeding concerning a request to be certified as a Part 90 frequency coordinator.¹ For the reasons addressed herein, NPSTC opposes Commission certification of Engineers Frequency Advisory Committee, LLC, or other similarly situated companies, as a Part 90 frequency coordinator.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee

¹ Public Notice: WT Docket 14-235, Wireless Telecommunications Bureau and Public Safety and Homeland Security

(PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 16 organizations participate in NPSTC:

- American Association of State Highway and Transportation Officials
- American Radio Relay League
- Association of Fish and Wildlife Agencies
- Association of Public-Safety Communications Officials-International
- Forestry Conservation Communications Association
- International Association of Chiefs of Police
- International Association of Emergency Managers
- International Association of Fire Chiefs
- International Municipal Signal Association
- National Association of State Chief Information Officers
- National Association of State Emergency Medical Services Officials
- National Association of State Foresters
- National Association of State Technology Directors
- National Council of Statewide Interoperability Coordinators
- National Emergency Number Association
- National Sheriffs' Association

Several federal agencies are liaison members of NPSTC. These include the Department of Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office for Interoperability and Compatibility, and the SAFECOM Program; Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, CommTech Program). In addition, Public Safety Europe is also a liaison member. NPSTC has relationships with associate members, the Canadian Interoperability Technology Interest Group (CITIG), and

the Utilities Telecom Council (UTC), and affiliate members: the Alliance for Telecommunications Industry Solutions (ATIS), Open Mobile Alliance (OMA), Telecommunications Industry Association (TIA), and TETRA Critical Communications Association (TCCA).

NPSTC Comments

In its Public Notice, the Commission seeks comments on a request by Engineers Frequency Advisory Committee, LLC (EFAC) to be certified as a frequency coordinator in the Part 90 radio services. EFAC is the latest of several companies that have requested Commission certification as a Part 90 frequency coordinator. EFAC members are Tusa Consulting Services, Blue Wing Services, and Shulman Rogers Gandal Pordy & Ecker, P.A. EFAC’s principals have numerous clients who use Part 90 frequencies. Previous requests under Commission consideration to be certified as a Part 90 frequency coordinator by other companies include those of ACD Telecom, LLC (ACD) and National Frequency Coordination, LLC.² ACD Telecom also has clients who use Part 90 frequencies, and NFC appears to have common ownership with other companies that have numerous applications for Part 90 frequencies on file with the Commission. In NPSTC’s view, none of these three companies meet the Commission’s qualifications to be certified as a Part 90 frequency coordinator.

² Public Safety and Homeland Security Bureau Seeks Comment on Request 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, released September 8, 2014; and Wireless Telecommunications Bureau Seeks Comment on Requests of National Frequency Coordination, LLC to be Certified as a Part 90 Frequency Coordinator and the Association of American Railroads to be Certified to Coordinate 800/900 MHz Band Business/Industrial/Land Transportation Frequencies, Public Notice, WT Docket No. 14-75, DA 14-653, released May 14, 2014.

NPSTC itself does not perform frequency coordination.³ However, NPSTC is well aware of the important role that private-sector frequency coordination has played in the effective and efficient use of the Part 90 spectrum bands since 1958.⁴ Organizations that need specialized mission-critical or business-critical communications rely heavily on Part 90 radio spectrum.

Operational requirements applicable to the Part 90 services have become more diverse and complex over the years. Concurrently, technology has also advanced to help keep pace with these operational requirements. The Commission's Part 90 rules and policies have followed a parallel path to help respond to user needs. Together, this expansion of operational requirements, the advancement of technology and periodic modifications to Commission rules have resulted in a spectrum environment today that supports analog, digital, conventional, trunked, voice and data systems, with some in shared spectrum and others licensed on a more protected basis.

The resulting LMR spectrum environment is increasingly more complex and crowded. Also, understanding and meeting the detailed requirements in Part 90 of the rules is essential to maximize use of the spectrum in the most effective and efficient manner. It is essential that public safety and industrial/business users be served by frequency coordinators that represent the respective user bases for which they coordinate, provide coordination in a fair and equitable manner, possess the requisite technical skills and coordination experience and understand the many nuances of the Commission's Part 90 rules.

³ Some of NPSTC's Member organizations do provide Part 90 frequency coordination services.

⁴ Previous Comments of LMCC in WT Docket No. 14-75 noted that the coordination process has been in place since 1958, was formalized in 1986 and was modified to provide for competitive coordination in 1997. LMCC Comments at page 3.

Previously, the Land Mobile Communications Council provided the following guidance regarding requests to be certified as a Part 90 frequency coordinator:

One of the fundamental requirements for receiving FCC-certification is that the entity must be “representative” of the applicants and licensees that it serves. This has been interpreted consistently by FACs to mean that they are to be overseen by and responsible to licensees for whom frequency coordination services are provided. In the opinion of the LMCC, this requires FACs to have a representative governance structure that directly oversees the development and implementation of all FAC-related policies and procedures. Those serving in that capacity should be appointed or elected by their peers, and not chosen by the very FAC staff whose activities they are to oversee. Whether those activities are performed entirely by FAC employees or contracted to others, the FAC governing body must be accountable for ensuring that the Commission’s standards for representativeness, non-discrimination, technical expertise, and nationwide coordination capability are fully satisfied. FCC certification of any entity that does not have an independent governance structure would undermine the credibility of the entire frequency coordination process upon which the Part 90 spectrum is made available.⁵

NPSTC concurs with the above LMCC guidance. NPSTC is particularly concerned how a company such as EFAC, ACD or NFC will be able to provide fair and equitable coordination to all parties. For example, what happens when a party requests coordination for a frequency also desired by a client of EFAC’s principals, a client of ACD or a subsidiary/principal of NFC? NPSTC is concerned how these three companies, or any similarly situated company which may request Part 90 frequency coordination in the future, can truly be representative of the user base they coordinate and provide fair and non-discriminatory frequency coordination services.

The current Part 90 frequency coordination environment works well. Current coordinators are representative of the base of users for which they coordinate frequencies, provide service in a fair and equitable manner and already provide a competitive frequency coordinator marketplace. In NPSTC’s view, the Commission is fortunate to have the current group of dedicated certified

⁵ Comments of LMCC, WT Docket 14-75, June 30, 2014.

frequency coordinator organizations. NPSTC opposes experimenting with this proven situation, as doing so could be detrimental to public safety.

Conclusion

NPSTC believes the current environment for Part 90 frequency coordination works well. NPSTC opposes Commission certification of Engineers Frequency Advisory Committee, LLC, or other similarly situated companies, to be certified as a Part 90 frequency coordinator.

Marilyn Ward, Executive Director

A handwritten signature in blue ink that reads "Marilyn B. Ward".

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January 5, 2015