

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

In the Matter of:)	
)	
Amendment of Part 90 of the Commission's)	PS Docket No. 15-199
Rules to Enable Railroad Police Officers to)	RM-11721
Access Public Safety Interoperability and)	
Mutual Aid Channels)	

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

The National Public Safety Telecommunications Council (NPSTC) submits these Comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹

NPSTC fully supports opening access for railroad police officers to the public safety interoperability and mutual aid channels in all bands as proposed. As addressed in these comments, NPSTC also supports the Commission's proposal on the definition of railroad police and on blanket licensing of railroad police mobile and portable units for operation on the interoperability and mutual aid channels.

¹ *Amendment of Part 90 of the Commission's Rules to Enable Railroad Police Officers to Access Public Safety*

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 (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-International²
- 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

² APCO International dissented with the views expressed in these NPSTC comments.

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).

Background

In May 2014, NPSTC submitted a Petition for Rulemaking requesting that the Commission modify Part 90 of its rules to enable Railroad Police access to frequencies reserved for public safety interoperability. The Commission placed the Petition for Rulemaking on Public Notice expeditiously and requested comment.³ The Commission notes in the NPRM “Commenters uniformly support the NPSTC proposal, citing the safety of life and property role that railroad police officers play in emergencies.”⁴ Also, some comments raised questions regarding the inclusion of various types of railroads under the definition of railroad police officer NPSTC had recommended in the petition.

Based on the support and input in the comments to the petition, the Commission developed a Notice of Proposed Rulemaking (NPRM), which proposes to provide railroad police

³ Public Notice, RM-11721, released May 30, 2014.

⁴ NPRM at paragraph 5.

access to the designated public safety interoperability and mutual aid channels in the VHF, UHF, 700 MHz and 800 MHz bands. As part of the proposal, the Commission has asked for comments on certain issues it will need to decide in modifying its rules to implement the proposal. These issues include the definition of railroad police officers eligible to use the channels, the licensing structure to be used, the area of operation allowed and how railroads will coordinate with state or regional public safety entities.

NPSTC Comments

NPSTC appreciates the Commission's fast attention to this issue. While railroads may be able to gain access to the interoperability and mutual aid channels through memorandum's of understanding with all the public safety entities encompassed in the railroad's operational area, doing so is cumbersome at best. Major railroads operate over multiple states and tens or hundreds of counties and municipalities. Obtaining MOUs with the relevant public safety entities would require the dedication of significant resources and time, with no guarantee of success throughout the entire operating area required. In addition, operating under such MOUs means that the public safety jurisdictions are ultimately responsible for railroad police communication operations implemented under the MOUs.

Railroad police officers need a more expeditious, direct and simpler process to enable interoperable communications with state, county and municipal law enforcement, and potentially with fire and emergency medical service personnel as well. The Commission's proposal, once adopted, should enable a significant improvement in railroad police interoperability with other law enforcement, fire and emergency medical personnel, especially in the event a major incident involving the railroad occurs. Accordingly, NPSTC supports the overall FCC proposal to allow

railroad police officers that are empowered to carry out law enforcement functions access to the public safety interoperability and mutual aid channels in all public safety land mobile bands.

The NPRM indicates a key question that must be addressed is the appropriate definition of railroad police officers. The Commission proposes to use the definition set forth in the Federal Railroad Administration (FRA) rules at 49 C.F.R. § 207.2(a) to (c), which define “railroad police officer” as follows:

- (a) Railroad police officer means a peace officer who is commissioned in his or her state of legal residence or state of primary employment and employed by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.
- (b) Commissioned means that a state official has certified or otherwise designated a railroad employee as qualified under the licensing requirements of that state to act as a railroad police officer in that state.
- (c) Property means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad.

NPSTC supports the use of this definition in lieu of that contained in the original NPSTC Petition for Rulemaking. Importantly, the NPRM indicates that Amtrak police fall within the FRA definition of railroad police officer. NPSTC never intended to exclude Amtrak police from the relief that modifying the Commission’s rules would provide.

The Commission proposes blanket licensing of railroad police officers’ employers with a condition allowing railroad police mobile and portable use of the public safety interoperability and mutual aid channels.⁵ This proposal is consistent with the simplified process needed. NPSTC supports the proposal and concurs that such blanket licensing should be limited to mobile and portable units.

⁵ NPRM at paragraph 16.

Any base and fixed stations allowed should be subject to frequency coordination, individually licensed and authorized in accordance with applicable State (SIEC), Regional Planning Committee (RPC) or local interoperability plans. In addition, all operations should be conducted in accordance with the interoperability plans.

While not specifically stated, it appears the Commission is proposing to apply blanket licensing to railroad police use of the VHF, UHF and 800 MHz band mutual aid and interoperability channels, but not the channels in the 700 MHz band. In discussing railroad police officer use of the 700 MHz narrowband spectrum interoperability channels, the NPRM states the following:

...Section 90.523 of the Commission's rules requires non-governmental entities to be authorized by a "state or local governmental entity whose mission is the oversight of or provision of services, the sole or principal purpose of which is to protect the safety of life, health or property." Rather than amend this rule, which stems directly from Section 337 of the Communications Act of 1934, as amended, we propose that ***any application filed*** [emphasis added] for use of 700 MHz narrowband channels by a railroad police entity that is not an independent law enforcement agency would have to be accompanied by an authorization from an appropriate "state or local government entity," *e.g.*, state or local police, or another governmental public safety licensee. We seek comment on this proposal.⁶

If an application must be filed for the use of 700 MHz narrowband spectrum interoperability channels as stated above, it is not clear that the Commission envisions blanket licensing in that band. NPSTC urges the Commission also to simplify the authorization process at 700 MHz as well, to the extent the law allows. Public safety users often deploy both 700 MHz and 800 MHz band channels in the same radio and from a practical and operational standpoint, view the channels as interchangeable. It is unfortunate if underlying legislation prevents the Commission from enabling the same simplification in railroad police use at 700 MHz as that possible in other public safety bands.

⁶ NPRM at paragraph 14.

NPSTC recommends that railroad police officers be allowed to use the public safety interoperability/mutual aid channels in any area where the respective railroad operates. A restriction that specifies operation within a fixed distance from the track would not be consistent with the authority provided to railroad police officers in some states.

The NPRM notes that administration of VHF and UHF interoperability and mutual aid channels falls to public safety frequency coordinators, while licenses for 700 MHz interoperability channels are held by the states or other entities designated by the states. NPSTC generally supports the Commission's proposal to apply the coordination and administration procedures for the relevant spectrum to railroad police use of the interoperability and mutual aid channels. NPSTC urges the Commission to ensure that whatever coordination procedures are required do not unnecessarily complicate authorization for railroad police use of the interoperability and mutual aid channels. For example, to the extent railroad police use of mobiles and portables on the VHF, UHF and 800 MHz band interoperability and mutual aid channels is authorized by a blanket license, it is unclear whether the normal need for coordination is applicable. Any coordination approach needs to be simplified to be workable.

Conclusion

NPSTC appreciates the opportunity to provide its views on the Commission's proposal to modify Part 90 of the rules to enable railroad police use of public safety interoperability and mutual aid channels. NPSTC supports proposals in the NPRM regarding the definition of railroad police officer and blanket licensing of mobile and portable units. Railroad police should be allowed to use the interoperability and mutual aid channels in any area where their respective railroad operates. Finally, any coordination required should be consistent with the goal to simplify the authorization of railroad police use of the interoperability and mutual aid channels.

Ralph A. Haller, Chairman

A handwritten signature in black ink, appearing to read "Ralph A. Haller", with a long horizontal flourish extending to the right.

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