

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

In the Matter of )  
 )  
The Development of Operational, Technical, and )  
Spectrum Requirements for Meeting Federal, State ) WT Docket No. 96-86  
and Local Public Safety Agency Communications )  
Requirements Through the Year 2010 )

To: The Commission

**COMMENTS OF APCO  
IN RESPONSE TO  
THIRD NOTICE OF PROPOSED RULEMAKING**

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”) hereby submits the following comments in response to the *Third Notice of Proposed Rulemaking* in the above-captioned proceeding, FCC 98-191 (released September 29, 1998), 63 Fed. Reg. 58645 (November 2, 1998) (hereinafter “*Third NPRM*”).<sup>1</sup>

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 represents the entire public safety communications community in a wide array of matters before the Commission, Congress,

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<sup>1</sup> On December 2, 1998, APCO submitted a “Petition for Reconsideration and Clarification” regarding the *First Report and Order* in this proceeding.

and other agencies. APCO is also the largest Commission-certified public safety frequency coordinator, and the only coordinator with responsibility in all portions of the public safety spectrum.

## **SUMMARY**

APCO urges the Commission to utilize Regional Planning Committees (RPCs) for all of the 700 MHz public safety spectrum. The Commission must not license 700 MHz spectrum directly to the states without the active participation of the RPCs. However, RPCs should be required to designate a minimum amount of spectrum for state-wide use, and should have the option of assigning interoperability channels to the state.

GLONAS and GPS must not be allowed to inhibit public safety use of the 700 MHz public safety band. Provisions intended to protect those navigational services must be narrowly crafted and applied only to those frequencies most directly affected.

The Commission must also identify and allocate additional public safety spectrum in bands below 512 MHz. This includes the 3 MHz in the 138-144 MHz band identified by the NPSTC Petition for Rulemaking, and other UHF and VHF spectrum that may become available.

Finally, APCO joins with the Commission in urging additional efforts to educate public safety agencies regarding potential Y2K problems. However, care must be taken not to impose unnecessary and costly burdens on the public safety community.

**I. REGIONAL PLANNING COMMITTEES SHOULD BE USED TO ADMINISTER THE REMAINING PORTIONS OF THE 700 MHz PUBLIC SAFETY SPECTRUM.**

The Commission has already decided that Regional Planning Committees (“RPCs”) would be the most efficient and effective means of administering the 12.6 MHz of public safety spectrum for which rules were adopted in the *First Report and Order*.<sup>2</sup> APCO urges that consistent spectrum planning requires that the remaining 8.8 MHz of “reserve” spectrum also be subject to the RPC process. APCO strongly opposes the alternative discussed in the *Third NPRM* of giving state governments control over the use and distribution of this spectrum.<sup>3</sup> There is, however, a need to set aside a portion of the “reserve” spectrum for state-wide systems pursuant to the RPC process.

APCO does not believe that there is substantial support among state governments for obtaining control and responsibility for spectrum planning. Indeed, the many state government communications officials who hold leadership and committee positions within APCO are strongly opposed to that concept. Most state governments are likely to be ill-equipped and unwilling to manage radio spectrum.<sup>4</sup> Nor will they be able to fund such activities in most cases, making any requirement that they do so an “unfunded federal mandate.”

Turning spectrum management over to the states would ignore the fact that radio spectrum propagation does not honor state boundaries. That is the principal reason why

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<sup>2</sup> *First Report and Order* at ¶¶ 77-89.

<sup>3</sup> *Third NPRM* at ¶ 174.

<sup>4</sup> APCO acknowledges that a few large states may well have the necessary capability.

RPCs in the Northeast are organized around multi-state metropolitan areas, such as Boston, New York, Philadelphia, and Washington. Otherwise, rational spectrum planning in such areas would be nearly impossible because of the need to work with separate planning bodies for two and sometimes three different states (*e.g.*, New York, Connecticut, and New Jersey for the New York metropolitan area, and Pennsylvania, New Jersey, and Delaware for the Philadelphia metropolitan area).

State governments obviously have a critical role in all aspects of public safety, and rural areas are often heavily dependent upon state agencies for essential public safety services. States must, therefore, have a key (but not exclusive) role in spectrum planning. However, it is important to keep in perspective that the vast majority of police, fire, and emergency medical services are provided at the county and city level, not by the state. Those “local” agencies are also the most likely users of the 700 MHz band, as state-wide use of 700 MHz spectrum will be impractical in many large states due to propagation characteristics that require large numbers of sites to cover an expansive geographic area.<sup>5</sup>

In the *Third NPRM*, the Commission notes the need to facilitate efficient state-wide shared multi-jurisdictional communications systems as a basis for state spectrum management.<sup>6</sup> APCO agrees that such shared state-wide systems can be very effective in providing public safety communications needs for a wide variety of state and local government agencies. Thus, as discussed below, APCO urges that some of the 8.8 MHz of reserve spectrum should be set aside by the RPCs for state-wide systems, including (but

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<sup>5</sup> Based on its experience with the 800 MHz band, APCO anticipates that counties and large cities will be the most likely users of 700 MHz.

<sup>6</sup> *Third NPRM* at ¶ 175.

not limited to) shared multi-jurisdictional systems. However, it would be inappropriate for the Commission to require multi-jurisdictional systems over the objection of the state and/or the local governments involved.

The Commission should also recognize that regional planning and state-wide systems are not incompatible. Numerous state-wide systems have been approved by the 821 MHz regional committees, both in states that are wholly within a single region (*e.g.*, Minnesota, Ohio, Florida, Colorado) and in states split between two regions (*e.g.*, Connecticut, California and Michigan).

The Commission separately seeks comments regarding the administration of the 2.6 MHz of Interoperability spectrum. For the reasons discussed above, APCO does not believe that the FCC should mandate that Interoperability spectrum be assigned directly to the states. Rather that should be an option for consideration by the RPCs. In the 821 MHz band, some regional committees did allot the “mutual aid” channels to states (*e.g.*, California), and the same result should be permitted, but not mandated for the 700 MHz interoperability spectrum. Requiring assignment of interoperability spectrum to the states could actually stall implementation of that spectrum if the relevant state government is unprepared or unwilling to assume the responsibility of managing public safety communications interoperability within its boundaries.

## **II. RPCs SHOULD BE REQUIRED TO SET ASIDE A PORTION OF SPECTRUM FOR STATE-WIDE USE.**

To facilitate further development of state-wide systems, APCO suggests that RPCs be required to set aside a minimum of 1.25 MHz for state-wide use. This would accommodate state public safety agencies (state police, transportation, forestry, *etc.*), and could be used for multi-jurisdictional state/local communications systems if so desired by the relevant parties. RPCs should also have the discretion to set aside larger amounts of spectrum for state wide use if deemed necessary. However, APCO opposes a larger mandated set-aside as that could tie up far more spectrum than the relevant state has any desire or ability to utilize, unnecessarily limiting spectrum utilization by cities and counties, and by nearby states. Each RPC should have the responsibility to designate which frequencies to set aside, in consultation with RPC's from neighboring regions to maximize spectrum re-use opportunities.

The designated state wide frequencies should be available with the understanding that if a state does not utilize the spectrum within a specified time period, then the spectrum must be returned to RPC's to satisfy other public safety needs within the state. APCO proposes that unused state wide channels be returned within five years from the time that the frequencies are assigned and available for use throughout the relevant state.<sup>7</sup>

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<sup>7</sup> Thus, the five year period would not begin until after the DTV transition in those states where some of the designated channels are blocked by television station operations.

### **III. THE COMMISSION MUST ALLOCATE ADDITIONAL PUBLIC SAFETY SPECTRUM IN BANDS BELOW 512 MHz.**

APCO is pleased that the Commission recognizes that the 700 MHz band allocation alone will not satisfy all of public safety's spectrum requirements, and that additional spectrum is essential in bands below 512 MHz.<sup>8</sup> However, the Commission must understand that additional spectrum is needed in those bands to relieve severe spectrum congestion, not just for interoperability. The VHF and UHF public safety bands are completely full in most parts of the country, leaving many agencies with no place to go for additional channels. "Spectrum refarming" will provide relief in the distant future, but very little if any additional channels in the near term. For many, moving to 700 MHz or 800 MHz is not practical due to propagation characteristics and cost. For others, those bands may be practical replacements, but are unavailable. The 800 MHz band is fully occupied throughout most of country, and the newly allocated 700 MHz band is unavailable at the present time in many areas due to continued television station operations (and nationwide if the Commission does not reconsider some of its misguided decisions in the *First Report and Order*<sup>9</sup>). Therefore, in addition to seeking interoperability spectrum below 512 MHz, the Commission must also identify additional "general use" spectrum in those bands.

The Commission offers three options for addressing interoperability needs below 512 MHz: (a) nine channels within existing VHF and UHF public safety allocations; (b)

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<sup>8</sup> *Third NPRM* at ¶¶185-188.

<sup>9</sup> See APCO's Petition for Reconsideration and Clarification (filed December 2, 1998).

reallocating 3 MHz in the 138-144 MHz band; and (c) two channels in the VHF maritime band. APCO urges the Commission to pursue all of these options.

The Public Safety Communications Council (PSCC) previously identified four VHF frequencies and five UHF frequencies that are among the least utilized within current public safety allocations.<sup>10</sup> APCO agrees that those frequencies should be designated for interoperability purposes. However, use of those frequencies is severely limited in most areas due to existing adjacent channel assignments (indeed, that is why the frequencies appear to be lightly used). Therefore, it would be a serious mistake to rely on these specific frequencies for nationwide interoperability purposes.

As to the 138-144 MHz band, APCO reiterates its strong support for a reallocation of 3 MHz from that band for public safety use. The NPSTC Petition and comments previously filed in response to the Petition demonstrate that the 138-144 MHz spectrum could satisfy many of public safety's interoperability needs, and could also be used to address some of the most severe congestion problems facing the VHF band. Allocations in the 138-144 MHz band are especially important in light of the serious impediments to use of 700 MHz. The ongoing (and potentially indefinite) broadcast use of the band, equipment delays (especially if the Commission refuses to recognize the existing ANSI standard), and potential problems with GLONAS, all impose daunting problems with could severely limit use of the 700 MHz in many areas, and possibly nationwide. Therefore, APCO urges the Commission to state its very strong support for

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<sup>10</sup> *Third NPRM* at ¶191.

this allocation and to join the public safety community in seeking whatever Congressional authority may be necessary for its implementation.

APCO also supports the Commission's proposal for the interoperability channels in the VHF Maritime Band, as recently allocated in PR Docket 92-257.<sup>11</sup> However, only two channel pairs were made available for public safety, and only in parts of western states that are far from navigable waterways.<sup>12</sup> Thus, while helpful in certain parts of the country, the maritime channels provide only limited relief to the basic interoperability needs facing public safety.

#### **IV. GLONAS AND GPS MUST NOT INHIBIT PUBLIC SAFETY USE OF THE REALLOCATED SPECTRUM.**

APCO is deeply concerned with the potential impact of restrictions intended to protect GLONASS and GPS. As discussed in the *Third NPRM*, many parties have noted that overly protective rules will impose daunting problems for the development of 700 MHz public safety equipment. Yet it appears that these restrictions are largely unnecessary in most of the relevant spectrum.

First, only GLONAS is at issue. GPS does not have a second harmonic in the 764-776/794-806 MHz frequencies that have been reallocated for public safety. Second, even as to GLONAS, it is only public safety channels designed for wideband use that pose a potential second harmonic problem. The narrowband voice channels are not at issue, and equipment for use on those channels must not be burdened with unnecessary restrictions

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<sup>11</sup> Third Report and Order and Memorandum Opinion and Order in PR Docket 92-257 (released July 9, 1998).

<sup>12</sup> The only major metropolitan areas included are Denver, Phoenix, Las Vegas, and Salt Lake City.

to protect GLONAS. Finally, the Commission should consider whether GPS (which does not pose a second harmonic issue with public safety spectrum) is a more than adequate substitute for GLONAS in many circumstances within the United States. In any event, every possible step must be take to ensure that public safety use of the 24 MHz will not be blocked by GLONAS.

**V. THE Y2K PROBLEM MUST BE ADDRESSED.**

APCO shares the Commission's concerns that some state and local government public safety agencies may not be taking adequate steps to address the so-called Y2K computer problem. APCO has sponsored public safety participation in the Commission's Y2K forums and in Congressional hearings, published articles on the Y2K issue in the *APCO Bulletin* (distributed to over 13,000 public safety communications officials), and provided Y2K seminars during APCO meetings, including the 1998 Annual APCO Conference and Exposition. Of course, much more needs to be done by all involved parties to prevent communications disruptions as we approach 2000.

The Commission seeks comments on several options for alerting public safety agencies, and compiling information regarding their efforts to address the Y2K problem. However, some of the specific options proposed by the Commission are unlikely to be effective, and could add unnecessary burdens on public safety communications personnel.

The Commission suggests that 800 MHz regional planning committees "file amendments to their plans to describe the state of Y2K readiness and the nature, progress and estimated completion schedule of Y2K compliance initiatives being undertaken by

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licensees in their regions.”<sup>13</sup> The regional planning committees are not the appropriate vehicle to gather this information. First, most regional committee members will also be part of the 700 MHz RPC process, and will soon be engrossed in that activity, leaving little or no time for additional responsibilities. Second, the committees do not have the funding to undertake such substantial information gathering and reporting activities. Third, the 800 MHz committees will in any event only reach a small percentage of public safety agencies, as the majority of state and local governments are not licensed in the 800 MHz band (and those that are tend to be larger cities and counties, rather than small jurisdictions that are less likely to be addressing the Y2K problem). Fourth, in some cases the state and local government personnel most heavily involved in Y2K compliance will have no relationship with the regional committees (or with any FCC-related activity for that matter) as they may be in information services (IS) or information technology (IT) departments that may be entirely separate from agencies with radio communications responsibility.

The Commission’s second option is to require frequency coordinators to seek information from “licensees for whom they have provided coordination services.”<sup>14</sup> APCO, the largest public safety frequency coordinator, is willing to assist the Commission in informing the public safety community regarding Y2K compliance. However, APCO does not believe that it would be appropriate for the Commission to impose upon it and other coordinators the considerable expense of contacting every public safety licensee to request information on their Y2K compliance. The coordinators do not have the

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<sup>13</sup> *Third NPRM* at ¶206.

<sup>14</sup> *Third NPRM* at ¶206.

resources for such a substantial undertaking. Rather, the Commission should itself send a notice to its licensees telling them about the need for Y2K compliance.<sup>15</sup> At the same time, APCO (and hopefully other public safety coordinators) will continue other forms of outreach to the public safety community.

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<sup>15</sup> The Commission may want to refrain from asking for reports from licensees, however, as that would add a substantial administrative burden on licensees and the Commission.

**CONCLUSION**

APCO urges the Commission to move forward in meeting communications needs of public safety agencies, consistent with the positions set forth above and in APCO's Petition for Reconsideration.

Respectfully submitted,

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January 19, 1999

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