

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 and Local)
Public Safety Agency Communication)
Requirements Through the Year 2010)
)
Establishment of Rules and Requirements)
For Priority Access Service)

WT Docket No. 96-86

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**JOINT REPLY OF
AMERICAN ASSOCIATION OF
STATE HIGHWAY AND TRANSPORTATION OFFICIALS,
FORESTRY CONSERVATION COMMUNICATIONS ASSOCIATION,
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES,
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION, AND
NATIONAL ASSOCIATION OF STATE FORESTERS
TO PETITIONS FOR RECONSIDERATION**

The American Association of State Highway and Transportation Officials ("AASHTO"),
the Forestry Conservation Communications Association ("FCCA"), the International Association
of Fire Chiefs, Inc. ("IAFC"), the International Association of Fish and Wildlife Agencies
("IAFWA"), the International Municipal Signal Association ("IMSA") and the National
Association of State Foresters ("NASF") (collectively referred to herein as "Joint Petitioners"),
pursuant to Section 1.429(g) of the Rules and Regulations of the Federal Communications
Commission ("FCC" or "Commission"). by their attorneys, hereby respectfully submit this Reply

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to Petitions for Reconsideration of the First Report and Order ("First Report") submitted to the Commission on or about December 2, 1998.

I. Preliminary Statement

Joint Petitioners filed joint comments and reply comments in this proceeding, and further filed for reconsideration of the First Report and Order adopted by the Commission. Joint Petitioners, as described in their joint comments, represent management of state and local government agencies responsible for emergency medical service, fire, forestry and highway public safety functions.

Joint Petitioners address five issues which have been raised in the various petitions for reconsideration. Three of the issues have been raised by multiple parties, namely standards regarding equipment to function on the interoperability channels, the role of the Regional Planning Committees, and accreditation of the National Coordination Committee as a standards making organization to approve standards for equipment to function on the interoperability channels. The other issues of interest concern federal user access to the 700 MHz band spectrum and participation in the 700 MHz public safety band management process, and a set aside of channels for low power operation in conjunction with on-scene/personnel accountability reporting systems.

II. Comments

A. Standardization of a 12.5 kHz Modulation Scheme

In the First Report and Order, the Commission designated digital as the primary modulation scheme for the new public safety band, with analog allowed as a secondary

modulation type, but only in addition to the digital mode. The Commission designated a 6.25 kHz bandwidth standard, with development of digital standards left to the new National Coordinating Committee. Several parties on reconsideration seek recognition of the APCO Project 25 protocol as the recognized standard for interoperability in the 700 MHz band.

The Project 25 Phase I protocol employs a 12.5 kHz bandwidth. A Phase II project, entailing a 6.25 kHz bandwidth, is in progress, with the common air interface projected for approval by the Telecommunications Industry Association by the 4th quarter of 1999, and the balance of the standards completed by 2002.¹ If approved by the recognized standards making body², the Project 25 Phase II radio would be compliant with the regulations and standards adopted by the Commission.

Many parties, including the National Public Safety Telecommunications Council and Joint Petitioners, asked the Commission to permit aggregation of channels for operation of 12.5 kHz (and also 25 kHz) channels, pending development, certification, and institution of manufacturing of 6.25 kHz channel equipment. These same parties asked the Commission to allow use of 12.5 kHz analog technology on an interim basis. Various interim/transitional plans were submitted, including that of Joint Petitioners, all of which contemplate (i) immediate use of the 700 MHz band, (ii) operation in the band utilizing existing 12.5 kHz bandwidth technology, and (iii) sufficient time before being required to transition to 6.25 kHz equipment to amortize the cost of such systems which may be installed while awaiting the development of 6.25 kHz digital

¹ See, *Ex Parte* presentation report of APCO, WT Doc. No. 96-86, Jan. 19, 1999.

² See, Section II.D., *infra*.

equipment for operation in this band.

Joint Petitioners respectfully submit that the Commission need not specifically endorse the Project 25 12.5 kHz protocol or any other standard at this time. The transitional provisions relating to early implementation of the 700 MHz band recommended by NPSTC, Joint Petitioners and others is sufficiently broad to enable users interested in early implementation to install Project 25, Phase I systems, as well as analog systems or other available technology. As recommended by Joint Petitioners, such systems must be phased out after allowance of a reasonable period for amortization. Accordingly, there is no need for the Commission to recognize any particular 12.5 kHz modulation or signaling scheme for early implementation during this transitional period. Doing so may be counter-productive, as that scheme may become the *de facto* standard; and if a single approach is so recognized by the Commission, it may be difficult to displace those systems at the appointed hour to move to a spectrum efficient 6.25 kHz bandwidth system as contemplated by the Commission, Joint Petitioners, and others

B. Role of Regional Planning Committees

A number of parties have raised issues concerning the role of the Regional Planning Committees, and of the interrelationship of the Regional Planning Committees with the frequency coordinators. Joint Petitioners understand the Commission's intent is that the RPC's are responsible for establishing a *plan* setting forth the manner in which the spectrum will be allocated among the various eligible users within the region and coordination of that region's plan with the plans of the adjacent regions. *First Report* at ¶ 84. Once the plan is established, the certified public safety coordinators [will] provide coordination in the 700 MHz band." *First*

Report at ¶98. To the extent there may be a question whether the applicant is eligible under the plan, that certification will be made by the RPC. The actual process of frequency coordination, i.e., selecting channels among those designated to a particular region or function as allocated by the plan and evaluating technical conditions applicable to the channels selected, will be performed by the frequency coordinator. In this regard, the frequency coordinators will be responsible for coordination between regions. Reliance on the frequency coordinators for these functions is most efficient since the coordinators will have access to the nationwide data base. Moreover, as professionals organized and managed to render a service to the user public as contrasted with a volunteer committee organization, the frequency coordinators can efficiently handle the requirement for assuring that assignments in the vicinity of a border area of a region do not conflict with assignments in the adjacent region.³ The coordinator also will assure the completeness of the application and submit the application to the Commission, as the coordinator currently does for frequencies below 512 MHz.

The notion of certain parties that the frequency coordinators will be mere conduits of the application paperwork, from the applicant or RPC to the Commission, is unfounded in the *First Report*, inefficient, and could lead to politicization of the RPC process. The coordinators are experienced in and have the tools for evaluating applicants' operating requirements and for recommending technical specifications (antenna heights and power limits) which will serve to meet an applicant's needs while conserving the spectrum for shared use. To charge the RPCs

³ "Many RPC's are likely to lack the time, resources or technical expertise to make frequency-specific assignments. . . ." Petition of APCO for Reconsideration and Clarification, WT Docket No. 96-86, at Section VI (Dec. 2, 1998).

with this function would lead to needless duplication. Moreover, applicants would be subject to the same type of process experienced at 800 MHz and through the local coordination process which the Commission ordered replaced with the current national coordination system over a decade ago, processes criticized for cronyism and characterized for being administered according to a social club environment. Moreover, charging the RPCs with the process of assigning frequencies raises the risk of warehousing of channels to serve the possible future interest of a particular RPC member where other public safety agencies have a need for and immediate intent to implement channel assignments. The Commission has required the frequency coordination process to operate at the national level, free of local interests and the opportunity for self-dealing. That same process should apply with regard to implementation of the regional plans.

Several parties have suggested the development of a common data base. Joint Petitioners support this concept and are working within the NPSTC toward this end. The data base, of course, must embrace the entire 700 MHz band public safety spectrum; and it must be managed for the benefit of all constituent public safety interests on an open and equal basis.

APCO suggests that a uniform surcharge be prescribed by the Commission for all 700 MHz band applications in order to recoup certain costs of administration. In this context, APCO offers to provide "up front" financial support for the RPCs subject to establishment of a mechanism for subsequently recovering those costs. The scope and nature of this proposal are ill defined, and the need is uncertain. Thirty four of the 55 regions are comprised of single state or territory. A number of the other designated regions are comprised of most of a state, with the exception of a metropolitan area bordering a metropolitan area in another state. It would appear,

accordingly that the RPCs will be extensions of the states' telecommunications planning processes, and thus will be eligible for state funding. Should APCO or any contractor offer to provide any up front service, its cost recovery mechanism can be specified in conjunction with that proposal. There is no need to have an open-ended prior endorsement from the Commission of a "surcharge" for frequency coordination. Moreover, such a concept is in conflict with the Commission's policy of "encouraging competition among coordinators, [to] promote cost-based pricing of coordination services and provide incentives for enhancing service quality." *First Report* at ¶ 98.

C. NCC and RPC Organizational Issues

The Federal Law Enforcement Wireless Users Group ("FLEWUG") requests Commission confirmation or specific recognition that federal users will have the opportunity to access the 700 MHz band for interoperability and shared system purposes. Joint Petitioners support FLEWUG's request. FLEWUG further seeks provision for inclusion of federal users in the planning process, whether at the regional, state or national coordination committee level. Again, Joint Petitioners support this proposal, taking into account that the federal users constitute a constituent component of the user community for this spectrum.

FLEWUG recommends limiting the RPCs to single state coverage. FLEWUG specifically takes issue with the Commission's statement that a "majority of the commenters' assessment that the regional planning approach has, for the most part, succeeded" in its use to date.⁴ FLEWUG further requests the Commission to reconsider the regional planning process to

⁴ Petition for Reconsideration and Clarification of the Federal Law Enforcement

follow “state geographic boundaries”⁵ Joint Petitioners raised this very issue in their comments in this proceeding. While this issue was not pursued in the Joint Petitioner’s Petition for Reconsideration, they nonetheless continued to believe that a state planning process is far superior to the regional planning process and accordingly support the FLEWUG petition. Moreover, reliance upon state boundaries for definitional purposes should serve to facilitate the planning committee funding issues of concern to APCO, and thereby moot any need for funding mechanism consideration since the states will have ultimate responsibility for their own implementation of this new spectrum.

Joint Petitioners disagree with FLEWUG with regard to charging NCC with responsibility for the General Use channels. The only role seen for the NCC in this area is to arbitrate disputes between states or regions, and possibly within a region, if there is a substantial division that cannot be resolved on a consensus basis.

D. ANSI Accreditation

Several parties, including The American National Standards Institute and the Telecommunications Industry Association, request the Commission to reconsider the requirement for the NCC to be ANSI certified. They note that TIA already is ANSI certified, and assert it effectively can serve as the standards making organization for interoperability for the 6.25 kHz modulation scheme. Joint Petitioners support this change in the Commission’s First Report and Order, for the reasons given by these parties.

Wireless Users Group, WT Docket No. 96-86 at paragraph 11 *et seq* (Dec. 2, 1998).

⁵ *Id.* at paragraph 18 *et seq.*

E. Preservation of Frequencies For Low Power On-Scene Accountability Reporting Systems.

Joint Petitioners support the request of Safety Tech Industries that the Commission designate a small number of General Use channels and otherwise conform its rules to allow for low power on-scene/personnel accountability reporting systems to be used by first responders. As representatives of the public safety services where first responders operate with protective clothing and self-contained breathing apparatus in extremely hazardous environments, Joint Petitioners applaud Safety Tech for its apparent breakthrough technology. Not only will a set aside of frequencies enable the on-scene/personnel accountability systems to be operated without threat of harmful interference from higher power mobile operations, but also the frequency set aside and conforming rule provisions should serve to stimulate other manufacturers to develop similar equipment. This use is a prime example of the opportunity presented by the allocation of the 700 MHz band public safety spectrum for the development of new communications systems to enhance the provision of public safety services to the user community and for the protection of the lives and health of the first responders who serve the Nation.

WHEREFORE, THE PREMISES CONSIDERED, The American Association of State Highway and Transportation Officials, the Forestry Conservation Communications Association , the International Association of Fire Chiefs, Inc., the International Association of Fish and Wildlife Agencies, the International Municipal Signal Association and the National Association

of State Foresters respectfully urge the Federal Communications Commission to dispose of the petitions for reconsideration of the First Report and Order in this proceeding in accordance with the foregoing views and positions.

Respectfully submitted,

**AMERICAN ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALS**

**FORESTRY CONSERVATION COMMUNICATIONS
ASSOCIATION**

**INTERNATIONAL ASSOCIATION OF
FIRE CHIEFS, INC.**

**INTERNATIONAL ASSOCIATION OF FISH AND
WILDLIFE AGENCIES**

**INTERNATIONAL MUNICIPAL SIGNAL
ASSOCIATION**

**NATIONAL ASSOCIATION OF STATE
FORESTERS**

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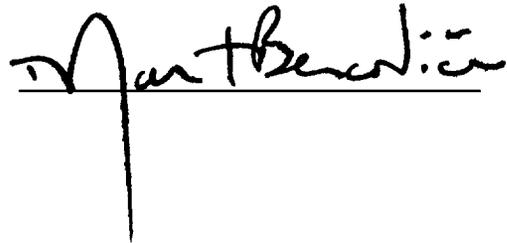
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Their Attorneys

Dated: February 5, 1999

CERTIFICATE OF SERVICE

I, Martin W. Bercovici, a partner of the law firm of Keller and Heckman LLP, do hereby certify that a copy of the foregoing Joint Reply to Petitions for Reconsideration was served this 5th day of February 1999 on all parties of record by first class United States, mail, postage prepaid.

A handwritten signature in black ink, reading "Martin W. Bercovici", is written above a horizontal line. A vertical line descends from the center of the horizontal line.