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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

To: The Commission

**REPLY TO RESPONSE OF APCO
TO PETITIONS FOR RECONSIDERATION**

The Dataradio Group of Companies ("Dataradio"), by its attorneys and pursuant to Section 1.429(g) of the rules of the Federal Communications Commission ("FCC" or "Commission"), hereby submits this Reply to the "Response of APCO to Petitions for Reconsideration" in the above-captioned proceeding.

Background

In its Petition for Clarification, Dataradio asked the Commission to clarify, and amend if necessary, the implied over-the-air bit rate for 50 kHz and 100 kHz channels. Dataradio's express intent was to ensure that affordable state-of-the-art equipment would be available to all public safety agencies, especially those serving lower density population jurisdictions.¹

¹ Dataradio used the term "lower density jurisdictions" to refer, collectively, to political subdivisions in the United States that contain relatively small numbers of residents as compared to major metropolitan areas. As Dataradio pointed out in its Petition for Clarification, in roughly

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In its Petition for Clarification, Dataradio noted that public safety agencies in lower density jurisdictions would typically employ 50 kHz and 100 kHz channels as the wideband channel of their communications networks.

APCO's Response

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") expresses concern with measures that would permit systems at lower efficiencies in the high speed data (HSD) segment of the 700 MHz band.² APCO states that the demand for high speed data channels is likely to be extremely high, particularly in metropolitan and suburban areas. That being the case, APCO believes that implementing systems at lower efficiencies would "leave many public safety unserved when the few HSD channels are allocated in each area."

Dataradio's Reply

Dataradio is sensitive to the points that APCO raises. Dataradio recognizes that the Commission must balance two competing objectives. On the one hand, as APCO notes, there is a distinct need to satisfy the demand for high speed data channels in metropolitan and suburban areas. On the other hand, the Commission must also be responsive to the operating and budgetary constraints that confront lower density jurisdictions.

half of all the local jurisdictions in the United States, the police departments operate with 50 or less vehicles.

² APCO Response, page 8.

Dataradio suggests that, though the issue raised by APCO is indeed a difficult one, it is not insolvable. In Dataradio's view, the solution rests in the Commission's time-honored approach of crafting a set of rules that provide, alternatively, for the distinct needs of both metropolitan areas and lower density jurisdictions.³ Dataradio supports retention of the established data efficiency standards for urbanized areas. For lower density jurisdictions, Dataradio believes it is appropriate to allow for maximum flexibility and multiple user options.

Finally, Dataradio believes that APCO has properly highlighted another significant difficulty -- the dilemma of those users who may be "disenfranchised" due to other competing demands for the wideband channels in the same general area. As APCO succinctly states, "some regions are likely to require wideband data channels beyond that which are allotted in the Commission's channel plan."⁴ To promote full implementation of innovative technologies in these areas, APCO has urged the Commission to give the regional planning committees the latitude to consolidate narrowband channels so as to make additional wideband channels available. Dataradio is supportive of this position.

Dataradio's Recommended Regulatory Approach

To arrive at a workable solution for the difficulties identified by APCO, Dataradio

³ As far back as 1954, the Commission has acted to accommodate the diverse needs of different areas of the country by developing graduated rules for the land mobile services geared to population size [*Order*, adopted June 21, 1954, 42 FCC 344 (1954)]. The Commission employed a similar approach when allocating frequencies for BETRS use in Docket No. 86-495, 3 FCC Rcd. 214 (1987). Other examples abound.

⁴ APCO Response, page 7.

proposes amendment of the minimum data efficiency transmission standards as follows:

- (a) for locations that are within 120.7 kilometers (75 miles) of the center of urbanized areas having 200,000 or more in population (as defined by the United States Census of Population), the transmission standard would be defined as 384 kbps for 150 kHz channels, or the equivalent bit rate for wideband channels of less than 150 kHz;
- (b) for locations that are more than 120.7 kilometers (75 miles) from the center of urbanized areas having 200,000 or more in population (as defined by the United States Census of Population), there would be no defined transmission standard. Rather, public safety agencies should have the option of using the efficiency rates and level of sophistication most compatible with their operational and budgetary requirements.⁵
- (c) in any area of the country, if none of the designated wideband channels are available for licensing, public safety users should be granted the flexibility to consolidate narrowband channels, subject to review by the appropriate regional planning committee. When channels are consolidated for the purpose of creating wideband channels, the equivalent minimum data efficiency rate for the narrowband channels should apply. The regional planning committees should be given wide latitude to approve the consolidation of narrowband channels and, in

⁵ This approach is patterned after existing rules that now permit variations in spectrum uses for lower density jurisdictions. *See, e.g.,* Section 90.20(d)(37) regarding the secondary use of designated frequencies for public safety operations and Section 90.35(c)(63) regarding the use of specified frequencies for central station commercial protection services, 47 C.F.R. §§90.20(d)(37) and 90.35(c)(63) (1997).

the event they do not recommend approval, should be required to issue a substantive justification to support their position.

Conclusion

As set forth in its Petition for Clarification, Dataradio remains concerned that the imposition of stringent minimum data efficiency rates in lower density jurisdictions will be counterproductive. There is a distinct likelihood that, without greater flexibility in the applicable efficiency standards, smaller agencies and smaller jurisdictions will be priced out of the market for wideband equipment. This effect, in turn, will restrict these agencies to continued use of the traditional analog communications and deprive them of the benefits of technological improvements.

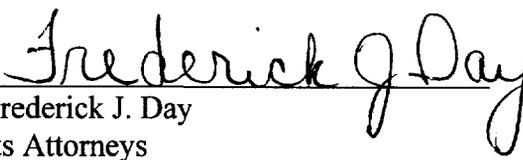
With the unique requirements of lower density jurisdictions firmly in mind, Dataradio urges the Commission to modify the existing rules as suggested above to permit public safety agencies located outside metropolitan/suburban areas to enjoy the full range of innovative technologies available with the 700 MHz wideband channels.

WHEREFORE, THE PREMISES CONSIDERED, the Dataradio Group of Companies urges the Federal Communications Commission to take action in the instant

proceeding consistent with the approach to data efficiency standards outlined above.

Respectfully submitted,

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Dated: February 18, 1999

CERTIFICATE OF SERVICE

I, Frederick J. Day, an attorney in the Law Offices of Day, Catalano & Plache, hereby certify that on this 18th day of February, 1999, I have served the foregoing document on the following individuals, at the addresses shown, by First-Class U.S. Mail, postage-prepaid:

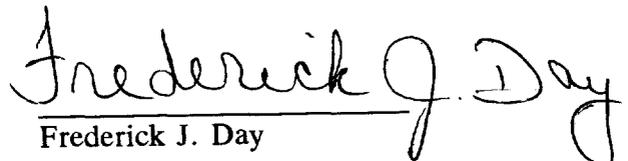
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