

EX PARTE OR LATE FILED



FEDERAL LAW ENFORCEMENT
WIRELESS USERS GROUP
WASHINGTON, D.C.



April 3, 2001

RECEIVED

ORIGINAL

APR 3 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
TW-A325
445 Twelfth Street, SW
Washington, DC 20554

Re: Reply Comments, In the Matter of the Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State, and Local Public Safety Communication Requirements Through the Year 2010, Establishment of Rules and Requirements for Priority Access Service, Fifth Notice of Proposed Rule Making, in WT Docket No. 96-86 ✓

Dear Ms. Salas:

On behalf of the Federal Law Enforcement Wireless Users Group (FLEWUG) and pursuant to Section 1.419 of the Commission's rules, 47 C.F.R. § 1.419 (1999), enclosed herewith for filing are an original and four (4) copies of the FLEWUG's Reply Comments in the above-referenced proceeding.

Kindly date-stamp the additional, marked copy of this cover letter and return it in the envelope provided.

Should you require any additional information, please contact the undersigned.

Respectfully submitted,

James J. Flyzik for

James J. Flyzik
Deputy Assistant Secretary
(Information Systems) and
Chief Information Officer,
Department of the Treasury

No. of Copies rec'd 075
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

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)
)

APR 3 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WT Docket No. 96-86

To: The Commission

REPLY COMMENTS TO THE FIFTH NOTICE OF PROPOSED RULEMAKING

Filed by: The Federal Law Enforcement Wireless Users Group

Date: April 3, 2001

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

APR 3 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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)
)

WT Docket No. 96-86

**REPLY COMMENTS OF THE FEDERAL LAW ENFORCEMENT WIRELESS USERS
GROUP IN RESPONSE TO THE FIFTH NOTICE OF PROPOSED RULEMAKING**

1. The Federal Law Enforcement Wireless Users Group (FLEWUG)¹ respectfully submits the following reply comments in response to the Commission's Fifth Notice of Proposed Rulemaking (Fifth NPRM). In the Fourth Notice of Proposed Rulemaking (Fourth NPRM), the Commission declined to adopt specific rules regarding migration to the General Use channels until it sought further comment on the issue. On March 19, 2001, the Commission received initial comments filed by interested parties in this proceeding. Thus, the FLEWUG submits the

¹ The FLEWUG is composed of law enforcement and public safety officials from the Department of the Treasury, Department of Justice, Department of the Interior, Department of Agriculture, Department of Defense, Department of Health and Human Services, United States Postal Service, United States Postal Inspection Service, National Telecommunications and Information Administration, Federal Emergency Management Agency, Internal Revenue Service, Federal Bureau of Investigation, United States Secret Service, United States Coast Guard, United States Capitol Police, Drug Enforcement Administration, United States Park Police, Immigration and Naturalization Service, United States Customs Service, Bureau of Alcohol, Tobacco, and Firearms, United States Mint, National Communications System, Defense Information Systems Agency, National Security Agency, Federal Law Enforcement Training Center, Bureau of Engraving and Printing, United States Marshals Service, National Institute of Standards and Technology, United States Forest Service, United States Fish and Wildlife Service, Federal Bureau of Prisons, Bureau of Land Management, and National Park Service. The FLEWUG's principal mission is to facilitate coordination between public safety agencies at all levels of government in responding to emergency situations and in so doing, maximize these agencies' ability to protect life and property.

following reply comments in support of its initial comments filed on March 19, 2001, and responds to the comments filed by other interested parties in this proceeding.

I. BACKGROUND

2. The Commission released the Fifth NPRM on January 17, 2001, based on the comments it received in the Fourth NPRM regarding the migration to the 6.25 kilohertz (kHz) standard on the 700 megahertz (MHz) band General Use channels. The Commission divided the implementation proposals for the 6.25 kHz standard for General Use channels into two groups. The first group contended that there is no need for migration at all on the General Use channels.² The second group proposed a migration path consisting of five stages and requiring 21 years to implement.³ On March 19, 2001, the Commission received initial comments from several public safety organizations⁴ and equipment manufacturers.⁵ Based upon a reading of the comments filed thus far, a division still exists as to whether the Commission should require a migration plan in order to facilitate the implementation of the 6.25 kHz standard on the 700 MHz band general use channels.

II. DISCUSSION

3. The FLEWUG wishes to again reiterate its support for the Association of Public-Safety Communications Officials-International, Inc. (APCO) five-step and 21-year plan. In addition, the FLEWUG draws the Commission's attention to the fact that the majority of commenters in this proceeding support the APCO migration plan.⁶ Under Step one of the APCO migration path, the immediate adoption of Project 25 Phase I as the interoperability standard is necessary. Step two requires that, as of December 31, 2006, or within 6 months after Commission notice, that no

² See generally Com-Net Ericsson, Nokia, and North American TETRA Forum (NATF) comments to the Fourth NPRM.

³ See generally APCO, International Association of Chiefs of Police (IACP), Motorola, FLEWUG, Public Safety Wireless Network (PSWN) Program, and Project 25 Steering Committee comments to the Fourth NPRM.

⁴ See generally the comments of The Public Safety Wireless Network Program, The Association of Public-Safety Communications Officials-International, Inc., the State of California, and The International association of Fire Chiefs, Inc. and The International Municipal Signal Association to the Fifth NPRM.

⁵ See generally the Comments of Com-Net Ericsson Critical Radio Systems, Inc., Motorola, and Nokia to the Fifth NPRM.

⁶ See generally comments of APCO, PSWN, Motorola, State of California, and the Federal Law Enforcement

fewer than 15 of the top 20 metropolitan areas have been cleared of relevant television stations. In addition, all new radios for use in the band must have the capability to provide one voice channel per 6.25 kHz and meet the Project 25, Phase I standard for Interoperability channels. Step three of the APCO plan requires that within 10 years after Step two that in the top 50 metropolitan areas, all General Use operations must be at 6.25 kHz. Further, Step four of the APCO plan requires that General Use operations must be at 6.25 kHz for the rest of the Nation within 15 years after Step two. Finally, under Step five, APCO requests that the Commission re-examine the technological marketplace and determine whether to develop a subsequent migration path.

4. Most notably, the FLEWUG supports the APCO migration plan because it requires the immediate adoption of Project 25, Phase I as the interoperability standard. The FLEWUG would like to again reiterate its longstanding support for Project 25, Phase I in its entirety.⁷ Because of the FLEWUG's longstanding support for Project 25, Phase I, it is compelled to take issue with Nokia's initial comments in this proceeding. Nokia argues that the Commission erroneously concluded in the Fourth NPRM that Project 25, Phase I standard would be the most beneficial interim standard for the 700 MHz interoperability spectrum.⁸ At the core of Nokia's argument is the belief that competition will be thwarted in the public safety marketplace and somehow spectrum efficiency will be sacrificed in mandating Project 25, Phase I long before interoperability will be necessary.⁹

5. Initially, the FLEWUG does not believe that competition will be thwarted in the public safety marketplace. In fact, if the Commission were to adopt the APCO migration plan it would allow for both 12.5 kHz and 6.25 kHz equipment to be installed in the near future that would require 700 MHz equipment type-accepted after a specific date to have 6.25 kHz capability.¹⁰ Moreover, as APCO has correctly pointed out in the Fourth NPRM, in order to maintain interoperability 6.25 kHz radios would require Project 25, Phase I for 12.5 kHz operation on the interoperability channels.¹¹ Thus, we concur with APCO that incentives would be created for

Wireless Users Group (FLEWUG) to the Fifth NPRM.

⁷ See, e.g., FLEWUG Ex Parte Comments, WT Docket Nos. 96-86 and 99-168, December 10, 1999, at ¶ 18.

⁸ See Fourth NPRM at ¶ 41-49.

⁹ See Nokia comments to the Fifth NPRM at 6.

¹⁰ See APCO comments to the Fifth NPRM at 2-3.

¹¹ See APCO comments to the Fourth NPRM at 7-10.

the introduction of 6.25 kHz capable radios, without requiring a specific technology. Thereby facilitating competition, we believe.

6. Finally, whether or not spectrum efficiency is indeed an issue ultimately hinges upon when the orderly migration to the 6.25 kHz standard on the 700 MHz band General Use channels actually occurs. The Public Safety National Coordination Committee (NCC)¹² recommended, and the Commission agreed, that the Project 25, Phase I standard, which has been approved by the American National Standards Institute (ANSI), be adopted as the digital voice standard for the 700 MHz interoperability spectrum. The NCC has not recommended Project 25, Phase II to date because of potential delays in developing this standard, nor has it advocated the European Terrestrial Trunked Radio (TETRA) standard, which Nokia and a number of entities have suggested as a possible alternative to Project 25. The NCC declined to recommend TETRA because this standard has not been approved by the ANSI. Moreover, in an effort to address the feasibility and need for a 6.25 kHz channel, APCO has stated that the Project 25, Phase II, 6.25 kHz standard will be backward compatible to the current Project 25, Phase I standard. Thus, contrary to Nokia's assertion, we believe that the Commission has not "foreclosed any migration from 12.5 kHz technology."¹³ But rather, the Commission has appropriately taken the recommendation of the NCC that Project 25, Phase I is indeed the correct standard to be used during the period of migration from the 6.25 kHz standard on the 700 MHz band General Use channels.

III. CONCLUSION

7. For the aforementioned reasons, the FLEWUG respectfully endorses and requests that the Commission adopt the General Use migration plan submitted by APCO. Moreover, for the

¹² See Public Safety National Coordination Committee's Recommendations to the Federal Communication Commission for Technical and Operational Standards for Use of the 764–776 MHz and 794–806 MHz Public Safety Band Pending Development of Final Rules (February 25, 2000).

¹³ See comments of Nokia to the Fifth NPRM at 2.

above reasons, the FLEWUG asks that the Commission deny Nokia's argument here and upon reconsideration of the Fourth NPRM.

Respectfully submitted,

Maria Elena Corales for

James J. Flyzik
Deputy Assistant Secretary
(Information Systems), and
Chief Information Officer,
Department of the Treasury

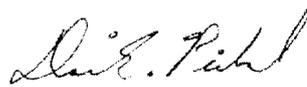
Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

CERTIFICATE OF SERVICE

I, David E. Pickeral, Associate, Booz-Allen & Hamilton Inc., 8283 Greensboro Drive, McLean, Virginia, 22102-3838, hereby certify that on this date I caused to be served, by first-class mail, postage prepaid (or by hand where noted) copies of the Federal Law Enforcement Wireless Users Group's Comments in response to the Commission's Fifth Notice of Proposed Rulemaking regarding the Commission's Notice of Proposed Rulemaking, *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*, the original of which is filed herewith and upon the parties identified on the attached service list.

DATED at Fair Oaks, Virginia this 3rd day of April 2001.



David E. Pickeral

SERVICE LIST

*The Honorable Michael Powell, Chairman
Federal Communications Commission
445 12th St., SW, Rm. 8-B201
Washington, DC 20054

*The Honorable Harold Furchgott-Roth, Commissioner
Federal Communications Commission
445 12th St., SW, Rm. 8-A302
Washington, DC 20054

*The Honorable Susan Ness, Commissioner
Federal Communications Commission
445 12th St., SW, Rm. 8-B115
Washington, DC 20054

*The Honorable Gloria Tristani, Commissioner
Federal Communications Commission
445 12th St., SW, Rm. 8-C302
Washington, DC 20054

*Peter A. Tenhula
Office of Chairman Powell
Federal Communications Commission
445 12th St., SW, Rm. 8-A204
Washington, DC 20054

*Ben Golant, Senior Legal Advisor
Office of Commissioner Furchgott-Roth
Federal Communications Commission
445 12th St., SW, Rm. 8-A302
Washington, DC 20054

*Mark Schneider, Legal Advisor
Office of Commissioner Ness
Federal Communications Commission
445 12th St., SW, Rm. 8-B115
Washington, DC 20054

*William J. Friedman, Legal Advisor
Office of Commissioner Tristani
Federal Communications Commission
445 12th St., SW, Rm. 8-C302
Washington, DC 20054

*Thomas J. Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th St., SW, Rm. 3–C252
Washington, DC 20054

*Kathleen O’Brien–Ham, Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th St., SW, Rm. 3–C255
Washington, DC 20054

*James D. Schlichting, Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th St., SW, Rm. 3–C254
Washington, DC 20054

*D’Wana R. Terry, Chief
Public Safety & Private Wireless Division
Federal Communications Commission
445 12th St., SW, Rm. 4–C321
Washington, DC 20054

*Ramona Melson, Chief Legal Counsel
Public Safety & Private Wireless Division
Federal Communications Commission
445 12th St., SW, Rm. 4–C321
Washington, DC 20054

*Herb Zeiler
Public Safety & Private Wireless Division
Federal Communications Commission
445 12th St., SW, Rm. 4–C321
Washington, DC 20054

*Katherine Hosford
Public Safety & Private Wireless Division
Federal Communications Commission
445 12th St., SW, Rm. 4–C321
Washington, DC 20054

*Mary Beth Murphy, Chief
Policy Division
Federal Communications Commission
445 12th St., SW, Rm. 2–C360
Washington, DC 20054

*Bruce Romano, Deputy Chief
Policy Division
Federal Communications Commission
445 12th St., SW, Rm. 2–C226
Washington, DC 20054

*Paul D’Ari, Chief
Wireless Policy Division
Federal Communications Commission
445 12th St., SW, Rm. 4–A325
Washington, DC 20054

*Susan Friedman, Deputy Chief
Wireless Policy Division
Federal Communications Commission
445 12th St., SW, Rm. 4–A225
Washington, DC 20054

*Steve Weingarten, Chief
Commercial Wireless Division
Federal Communications Commission
445 12th St., SW, Rm. 4–C224
Washington, DC 20054

*Jeff Steinberg, Deputy Chief
Commercial Wireless Division
Federal Communications Commission
445 12th St., SW, Rm. 4–C222
Washington, DC 20054

*Jeanne Kowalski, Deputy Chief
Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
445 12th St., SW, Rm. 4–C324
Washington, DC 20054

International Transcription Services, Inc.
1231 20th St., NW
Washington, DC 20037

***HAND DELIVERED**