

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

In the Matter of)	
)	
Amendment of Sections 90.20 and 90.175 of the))	WT Docket No. 02-285
Commission's Rules for Frequency Coordination))	RM-10077
of Public Safety Frequencies in the Private Land))	
Mobile Radio Below 470 MHz)	

**Joint Reply Comments
Of
FIT and MRFAC**

Forest Industries Telecommunications ("FIT") and MRFAC, Inc. ("MRFAC"), hereby submit these Joint Reply Comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹ Herein, FIT and MRFAC show that the record supports revising the Commission's rules to allow true competition in the coordination of both Public Safety ("PS") and Industrial/Business ("I/B") frequencies. The Commission should allow coordination of all PS frequencies by all approved PS and I/B frequency coordinators, just as it should allow coordination of all I/B frequencies by all approved PS and I/B coordinators. There is no legitimate basis for excluding I/B coordinators from work on PS frequencies, and doing so will only hobble the Commission's commendable attempt to bring lower costs and increased service to the PS community.

¹ See Notice of Proposed Rulemaking in WT Docket No. 02-285, RM-10077 (rel. September 19, 2002) ("*NPRM*").

I. Introduction

FIT is a trade association representing the land mobile communications interests of the forest products industry, and it is also a certified I/B frequency coordinator. It has been coordinating frequencies for the forest products industry for over fifty years, and more recently for clients in other industries as well. MRFAC began operation as the frequency coordinating arm for the National Association of Manufacturers. For the past 23 years MRFAC has operated independently, providing coordination and licensing-related services, particularly for manufacturers and other industrial and business entities.

While FIT and MRFAC are classified as I/B coordinators, both have extensive experience in coordination in the context of safety-of-life situations. Both coordinate frequencies used by companies to provide internal fire fighting, emergency, and security services.² Indeed, many of the clients and members of FIT and MRFAC have memoranda of understanding or mutual assistance agreements with local communities for medical, fire and other emergency response services.

II. The Record Supports Competitive Coordination of PS Frequencies

The record in this proceeding provides overwhelming support for opening up coordination of the PS frequencies to competition. First, the Commission's prior experience in opening other public safety frequencies to coordination, as described in

² For example, currently 13 percent of FIT's pending active applications are from School Districts, Volunteer Fire Departments, Medical Facilities/Centers, Ambulance Services, Park Districts and Water Districts that are having FIT assist with their licensing on PS frequencies (pre-screening, frequency research, contour studies and submission to a PS coordinator) or coordinate frequencies on I/B channels rather than on SERS or LGRS channels, where the

the *NPRM* and elsewhere, demonstrates the benefits of competition. The Commission has already found that competitive coordination of the Local Government Radio Service ("LGRS") would promote lower costs and quicker service to the public. *NPRM* at para. 5, *citing Refarming Second Report and Order*, 12 FCC Rcd 14307, 14328 (1997). Indeed, the Commission notes that after five years of competitive coordination of LGRS, it has not received any information that PS communications have been adversely affected as a result. *NPRM* at para. 10. This finding is consistent with the predictions that the Commission made when it authorized competitive coordination of LGRS, and similar positive predictions in the current proceeding should be realized as well.

Second, the comments in this proceeding overwhelmingly support opening up coordination of PS frequencies to competition. Such support comes from the most important source: the PS agencies themselves and their consultants/vendors. See, e.g., Comments of Bergen County Police Department ("Bergen County"), Suffolk County Police Department ("Suffolk County"), the State of Nebraska, the State of California, Metropolitan Police Department of Washington, D.C., and Cattron-Theimeg, Inc.

This broad support from PS agencies is not surprising: FIT and MRFAC regularly receive requests for service from members of the PS community who are dissatisfied with the cost and quality of the service they are currently receiving. See, e.g., Comments of the State of California at page 3 (current system results in "increased cost and, in some cases, force[d] acceptance of less-than-desirable service"). Suffolk

entity can show I/B eligibility.

County (Comments at pages 6-7) notes that competition would "promote the integrity of the public safety frequency coordination process and instill a new efficiency and effectiveness ..." and will enhance rather than complicate the coordination process. See *also* Comments of Bergen County at page 3.

It is also clear that by reducing the number of coordinators that would have to review a proposal, competition would reduce costs and delays in interservice sharing, and would expedite services that may be helpful in promoting homeland security.

III. The Commission Should Allow True Competition: All Certified Coordinators Should Be Allowed to Work on All Applications.

While FIT and MRFAC are pleased that the Commission is opening the door to competition in coordination of PS frequencies, they are disappointed that the Commission has opened that door only part of the way, by limiting the competitors to the existing PS coordinators. To really achieve the benefits sought by the Commission, and by the commenters from the PS community, the Commission must allow true competition among coordinators: all certified coordinators should be allowed to work on all applications, regardless of whether they are for PS or I/B facilities. Industrial Telecommunications Association, Inc. ("ITA") suggested this approach in its comments, and FIT and MRFAC fully support ITA's comments.

It is certainly the case that I/B coordinators have all of the technical capabilities necessary to coordinate PS frequencies. I/B coordination requires the same analysis and evaluation as PS coordination, and in fact many I/B and PS coordinators use the

same third party software.³

It is also true that I/B coordinators currently have, or can rapidly obtain, any "special knowledge" necessary to coordinate PS frequencies. As was noted above, coordinators such as FIT and MRFAC have extensive experience in coordination in the context of safety-of-life situations, and in working with governmental agencies. As Suffolk County states, "[t]here is nothing in the record to show that frequency coordination for a particular segment of public safety is so unique and refined that it must remain a monopoly service and that cannot be opened to competitive opportunities." Comments at page 6. Even in regards to local or regional PS spectrum plans, while there is no evidence that such plans exist everywhere, where they do exist, such plans could and should be made public to all PS entities and to all coordinators. See Comments of the State of California at page 2. When such plans are made available to all coordinators, they can easily incorporate such information into the coordination process.

While the *NPRM* raises the question as to whether competitive coordinators are sufficiently "representative" of the PS entities for whom they would perform work, FIT and MRFAC assert that this putative qualification is no longer relevant or necessary in a system of competitive coordinators. The representativeness criterion appears to have originated in the prior policy of allowing only one coordinator for each pre-pool PS

³ For example, PS coordinators FCCA and AASHTO use the same RadioSoft database system used by I/B coordinators FIT, MRFAC, the American Automobile Association and the Association of American Railroads. The same RadioSoft software used by FIT and MRFAC is also licensed to the FCC, as well as to numerous other Federal, local and state government agencies. FIT and MRFAC have also been informed that licensed copies of the software are

service.⁴ In that circumstance, there may have been some rationale for "representativeness" in selecting the sole coordinator for such a narrow range of users. However, opening up coordination of the entire PS pool to numerous competitors, as proposed in the *NPRM*, eliminates that rationale. Indeed, not only is the question as to whether a coordinator is "representative" no longer relevant, it appears that it may be a barrier to efficient licensing, especially in a competitive coordination environment. As Suffolk County notes (Comments at page 7), "the current structure instills an incentive [for PS coordinators] to serve only one constituency." Such perverse incentives associated with the "representative" nature of PS coordinators are also consistent with the allegations of warehousing of PS frequencies and discriminatory treatment by current PS coordinators. See *NPRM* at para. 20.

Because the current I/B coordinators are obviously qualified to work on PS frequencies, it appears that the Commission has left I/B coordinators out of this proposal in part due to fears about the impact of full competition. Yet, while it is reasonable to inquire about the potential impact of competition, it is clear that the feared problems are largely driven by the incumbent PS coordinators, who naturally seek to retain their monopoly positions. The commenters recognize this. See, e.g., Comments of Suffolk County at page 7 ("Claims that competition will spawn confusion, delay and burden limited government resources, while typical of incumbent resistance, have been squarely rejected by the Commission in a range of telecommunications markets."). As Suffolk County suggests, those unsupported claims should be rejected in this

also owned by APCO, PCIA and AMTA.

proceeding as well.

IV. The Proposal for Competitive Coordination

FIT and MRFAC fully support the proposal made by ITA in its Comments: permit frequency coordination by any FCC-certified Part 90 coordinator for both the PS and the I/B pools below 470 MHz. In addition, FIT and MRFAC support the ITA suggestion that there be full competition in the coordination of all PS and I/B services at 700, 800 and 900 MHz. Comments at page 4 and note 11. As ITA notes, under this scenario, the PS and I/B frequency allocations remain unchanged. I/B entities would not gain any eligibility to PS frequencies. However, all applicants could request frequency coordination from any certified coordinator.

In order for the Commission to achieve the public interest benefits sought in the *NPRM* and by the commenters, the competition must be full competition. Thus, the proposal for allowing competitive coordination only where a proposal does not overlap the service contour of an incumbent, will not achieve these benefits. *NPRM* at para. 21.

Requiring a coordinator to obtain the concurrence of another coordinator is, in effect requiring a second coordination, with resulting additional costs and delay. Such a result fatally skews the competitive market, as few if any parties will send an application to a competitive coordinator, if that coordinator must then send the proposal to an incumbent coordinator, and then pass back to the applicant the additional fee of the incumbent coordinator. All of the economic and time incentives in such a situation are for the applicant to go to the incumbent coordinator. As a result, none of the primary desired

⁴ See *NPRM* at note 12 and citation therein.

benefits of competition (lower application costs, speedier service) are gained. See Comments of Suffolk County at page 8, and State of California at page 3.

While FIT and MRFAC assert that the public interest would best be served by allowing full competition in coordination, they recognize that the Commission unfortunately may not feel comfortable making the entire transition to full competition at this time. At very least, however, the Commission should allow I/B coordinators to coordinate SERS and LGRS frequencies. In regards to SERS frequencies, it must be noted that PCIA is already certified to coordinate such frequencies, notwithstanding the fact that PCIA is not a traditional PS coordinator, nor is it "representative" of any PS constituency. FIT and MRFAC have the same technical expertise and capabilities as PCIA. Furthermore, as discussed above, both FIT and MRFAC have extensive experience working with the entities that typically apply for SERS frequencies: school districts, volunteer fire departments, medical facilities/centers, and ambulance services. There is no rational basis for denying FIT and MRFAC the right to coordinate such frequencies, if PCIA is allowed to do so.

In regards to LGRS frequencies, many of the same arguments apply. FIT and MRFAC have the same technical expertise and capabilities as the PS coordinators. They already have experience in coordinating in the context of safety-of-life situations, for frequencies used by companies to provide internal fire fighting, emergency, and security services. The Commission has already moved to limited competition coordination of LGRS, with no evidence of harm. The only difference between FIT and MRFAC on the one hand, and the coordinators of LGRS on the other, is

"representativeness" and access to PS regional plans. Yet as shown above, representativeness is no longer relevant in the competitive context, and access to regional plans can and should be mandated.

V. Conclusion

The Commission should allow coordination of all PS frequencies by all approved PS and I/B frequency coordinators, just as it should allow coordination of all I/B frequencies by all approved PS and I/B coordinators. There is no legitimate basis for excluding I/B coordinators from work on PS frequencies, and doing so will only hobble the Commission's commendable attempt to bring lower costs and increased service to

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the PS community. At very least, the Commission should allow all certified Part 90 coordinators to coordinate SERS and LGRS frequencies.

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Respectfully submitted,

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