Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Section 90.20 and 90.175 of the	)	WT Docket 02-285
Commission's Rules for Frequency Coordination	)	RM-10077
Of Public Safety Frequencies in the Private Land	)	
Mobile Radio Below 470 MHz Band	)	

To: The Commission

JOINT REPLY COMMENTS OF

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS
ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS-INTERNATIONAL, INC.
FORESTRY CONSERVATION COMMUNICATIONS ASSOCIATION
and
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION/INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.

The American Association of State Highway and Transportation Officials ("AASHTO"), the Association of Public-Safety Communications Officials-International, Inc. ("APCO"), the Forestry Conservation Communications Association ("FCCA"), and the International Municipal Signal Association/International Association Of Fire Chiefs, Inc. ("IMSA/IAFC") (collectively referred to herein as "Public Safety Coordinators") hereby submit the following joint reply comments regarding the Notice of Proposed Rulemaking ("*NPRM*"), FCC 02-255 (released September 19, 2002), 67 Fed. Reg. 67348 (November 5, 2002), in the above-captioned proceeding.

I. INTRODUCTION AND SUMMARY

The Public Safety Coordinators have recently agreed to new procedures to govern situations in which a coordinator processing an application must obtain approval from another public safety coordinator due to the exclusive frequency coordination assignments in Section 90.20(c) of the Commission's rules. The new procedures will streamline the coordination process, lead to more effective and efficient frequency coordination, and reduce coordination costs for public safety applicants, while continuing to recognize the specialized needs of the various public safety services. As a result, the Public Safety Coordinators, including APCO, are now in agreement that APCO's recommended rule modifications discussed in the *NPRM* are unnecessary.

The Public Safety Coordinators also take this opportunity to voice united opposition to allowing any of the Industrial/Business Pool coordinators to coordinate Public Safety Pool frequencies (other than PCIA's existing coordination of former Special Emergency frequencies).

II. IMPROVED PROCEDURES AMONG THE PUBLIC SAFETY COORDINATORS MAKE IT UNNECESSARY TO MODIFY FREQUENCY COORDINATION ASSIGNMENTS.

APCO filed its Petition for Rulemaking because of public safety applicants' concerns regarding frequency coordination costs and delays, especially where applications require approvals from multiple coordinators. This occurs, for example, when a public safety agency files an application for multiple frequencies with a single coordinator, and the "processing coordinator" determines that one or more of the frequencies necessary to satisfy the applicant's request are subject to exclusive coordination by at least one other Public Safety Coordinator (the

"home coordinator").[1] This process can involve considerable time delays and substantial additional coordination fees payable by the applicant.

APCO sought in its Petition for Rulemaking to eliminate the cumbersome "cross-coordination" process by allowing any Public Safety Coordinator to coordinate any of the Public Safety Pool channels. IMSA/IAFC, AASHTO, and FCCA filed comments opposing APCO's request, citing among other factors their unique representation of particular public safety services and need to protect localized plans for state-wide and area-wide channel use. APCO has acknowledged the need for coordination procedures to protect such operations.

The Public Safety Coordinators have now reviewed their operating practices and have reached consensus that new common procedures are necessary to speed the coordination process and reduce costs for applicants. Specifically, the Public Safety Coordinators have agreed to the following procedure, which has been incorporated in a written agreement:

> Whenever a Public Safety Coordinator determines that an application can only be satisfied by the assignment of a channel subject to the exclusive coordination of a different Public Safety Coordinator, the initial "processing coordinator" will send an electronic notification to the "home coordinator" with sufficient information for the home coordinator to determine if grant of the application would interfere with licensed co-channel or adjacent channel operations. Within five (5) business days thereafter, the home coordinator must approve the request or reject it (providing information regarding the basis for its objection, as the Commission already requires). If no response is received within five (5) business days, the processing coordinator may presume approval and submit the application to the Commission.[2]

This processing requirement will greatly improve speed of service and provide all public safety applicants with more efficient and effective frequency coordination.

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[1] It can also occur if an applicant does not pre-select a frequency, leaving it to the coordinator to identify the "most appropriate" frequency, which could be a frequency for which the coordinator in question does not have responsibility under Section 90.20(c). In some instances, an applicant may know that its requested frequency must be coordinated by a specific coordinator, but it prefers to use a different coordinator to process the application.

[2] The Agreement among the Public Safety Coordinators also provides that in cases of unusual complexity or other extraordinary circumstances, the home coordinator may, within the five (5) business days allowed for response, notify the processing coordinator of both the need and basis for an extension; and absent objection, the time to respond will be extended by two (2) business days.

The Public Safety Coordinators have also agreed to a fee arrangement for "cross coordination" situations, which will lead to lower costs and less confusion for applicants. Until now, home coordinators have charged their full coordination fees (which can vary significantly, depending upon the coordinator) when approving an application from another coordinator. That fee is passed on to the applicant, usually with a nominal fee from the processing coordinator (despite the fact that the processing coordinator, not the home coordinator, carries the heaviest burden in the overall coordination of the application). As a result, applicants are often forced to select coordinators and submit applications to a processing coordinator without knowing the total coordination fee.

The new "cross-coordination" fee arrangement provides for the home coordinator to charge the processing coordinator a fixed fee (which is lower than any of the full coordination fees now charged by the "home coordinator"). The new fee more accurately reflects the relative roles and resource allocations of the home and processing coordinators in the overall coordination of a public safety applications. Importantly, each processing coordinator remains free to charge applicants whatever coordination fees it deems appropriate to recover its costs. Coordinators have complete discretion as to whether and to what extent the fee paid to the home coordinator is incorporated within the fees charged to applicants.

The Public Safety Coordinators believe that this new fee arrangement will result in substantial reductions in the total cost to applicants for frequency coordination, and provide applicants with a single fee, rather than multiple fees from multiple coordinators (which can slow application processing). Moreover, the new arrangement will provide applicants and coordinators the ability to predict total coordination fees with much greater accuracy. That, in

turn, will allow applicants to select coordinators based at least in part upon anticipated fees, achieving many of the competitive goals of the APCO proposal.[3]

The Public Safety Coordinators believe that these new procedures and fee structures will improve service and lower costs for applicants, while preserving the discipline-specific expertise of the coordinators. Several of the Public Safety Coordinators have raised particular concerns regarding the potential in a competitive coordination environment for interference to state-wide and area-wide public safety radio operations that are not fully described within existing license databases (*e.g.*, mobile-only forestry conservation frequencies) . Maintaining the existing coordination rules, with the new procedures described above, will preserve coordinators' specialized knowledge of such operations. Nevertheless, the Public Safety Coordinators have also agreed to develop more efficient and effective means of sharing information regarding frequencies and uses requiring such interference protection.

Therefore, all of the Public Safety Coordinators now agree that the Commission should maintain existing frequency coordination responsibilities for Public Safety Pool channels below 470 MHz. Major changes to Section 90.20(c) are unnecessary, as the Public Safety Coordinators are now implementing new procedures that will speed the coordination process, reduce cost, and protect critical public safety communications from harmful interference.[4]

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[3] In many instances, the selection of the "processing" coordinator is not pre-determined, because the applicant is requesting multiple frequencies from different former public safety radio services (*e.g.*, one former "police channel" and one former "fire channel"), the applicant does not specify a frequency, and/or the applicant serves multiple agencies within its jurisdiction and does not fit neatly into any of the narrow categories that previously divided channel assignments. Faced with much more predictable coordination fees, such applicants will be able to include cost of coordination in their selection process.

[4] The Public Safety Coordinators have no objection to the Commission codifying the 5-day response period and silence-is-deemed-consent provision of their agreement. Doing so would reflect the enhanced operating practice in the Commission's rules and would serve to inform users of the service commitment and standards of the Public Safety Coordinators.

III. INDUSTRIAL/BUSINESS POOL COORDINATORS SHOULD NOT BE PERMITTED TO COORDINATE PUBLIC SAFETY POOL CHANNELS.

The Industrial Telecommunications Association ("ITA") and PCIA, the Wireless Infrastructure Association ("PCIA"), have filed comments asking that they and other Industrial/Business ("I/B") Pool coordinators be permitted to coordinate Public Safety Pool channels.[5] The Public Safety Coordinators strongly oppose such proposals, which would allow entities with no meaningful representation of or experience with public safety entities to assign radio frequencies used in the highly sensitive communications systems of public agencies chartered by law to protect the safety of life, health, and property. In any event, the ITA/PCIA proposals are beyond the scope of the *NPRM*.

As discussed in the *NPRM*, frequency coordinators must be representative of applicants and users of the channels for which they have frequency coordination responsibility. This is especially important in the Public Safety Pool, where licensees have an extremely low tolerance for interference, unique patterns of use, and specialized operational requirements. Public Safety users thus depend heavily upon the expertise, experience, and interference protection protocols of coordinators whose memberships reflect the public safety community. For example, in the "shared" channels that are the subject of this proceeding, the Public Safety Coordinators have established interference protection criteria far more rigorous than what is acceptable in the I/B Pool, where some coordinators will approve virtually any application, regardless of the potential for interference. Public safety radio systems cannot operate in such an environment.

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[5] PCIA appears to seek broader coordination responsibility in the Public Safety Pool only if the Commission expands the number of coordinators eligible to coordinate former Special Emergency Radio Service (SERS) channels (responsibility for which it now shares with IMSA/IAFC). However, neither the APCO Petition for Rulemaking nor the *NPRM* proposed such an expansion.

The memberships of ITA, PCIA, and other I/B Pool coordinators consist almost entirely of industrial and business enterprises.[6] None of the I/B Pool coordinators represent agencies charged by state and local governments to protect the safety of life, health and property. While some I/B licensees may use some of their channels for important safety-related functions, public safety is not the principal function of either I/B licensees or of I/B coordinators.

The Public Safety Coordinators have expressed varying opinions in this proceeding as to whether coordinators need to be specifically representative of particular public safety disciplines, or whether broader public safety representation is sufficient. However, the Public Safety Coordinators and their members are in complete agreement that only entities that are clearly representative of public safety licensees should be permitted to coordinate use of public safety radio frequencies. Neither ITA, PCIA, nor any other I/B Pool coordinator satisfies that bedrock requirement.

[6] While a small percentage of applications coordinated by PCIA may be for former SERS channels now part of the Public Safety Pool, PCIA's membership consists almost entirely of business entities eligible only in the I/B Pool and does not include any significant number of state and local government agencies, who constitute the vast majority of Public Safety Pool licensees.

CONCLUSION

Therefore, for the reasons discussed above, the Commission need not, and should not, modify current Public Safety Pool frequency coordination assignments.

Respectfully submitted,

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