BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In The Matter Of

State of Ohio	)	**FCC File Number**
Modification for License WPQF782	)	**0002106060**
NPSPAC Frequency	)	
	)	
Ohio Public Safety Plan --	)	**P.R. Docket No. 91-258**
Region 33	)	
	)	

To: Private Wireless Branch
Wireless Telecommunications Bureau

OPPOSITION OF
THE
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION
TO
MOTION TO STRIKE

The International Municipal Signal Association ("IMSA") respectfully submits this Opposition to the Motion to Strike filed by the City of Brooklyn, Ohio ("Brooklyn") concerning the Comments of IMSA filed July 8, 2005 in the matter referenced above.[1]

Brooklyn asserts that "IMSA is not an aggrieved party," and that Petitioner has not requested any remedial action against IMSA.[2] It further asserts that "IMSA's competency and sincerity are not being challenged in this proceeding" and that "IMSA is not to blame for this situation," but then states that IMSA "allowed its frequency coordination customers to be left adrift . . ."[3] With no reasoned analysis and no citation to any authority, Brooklyn then asserts that IMSA lacks standing, its comments are

[1] IMSA addresses the Motion to Strike only as it pertains to the Comments of IMSA and not regarding the pleading by the State of Ohio.

[2] Motion at 2.

[3] *Id.*

"procedurally defective," and were rendered moot by Brooklyn's Reply to the State of Ohio—a pleading that neither was served on IMSA, mentions IMSA, nor retracts the criticism leveled against IMSA in Brooklyn's Petition for Reconsideration.

Brooklyn's Motion to Strike reinforces IMSA's evaluation that Brooklyn lacks familiarity with and understanding of the frequency coordination process, and now of the Commission's procedural rules.[4]

First, the Petition for Reconsideration filed by Brooklyn was filed by the Commission in its "Ohio Public Safety Plan—Region 33" rulemaking docket, as well as in the State of Ohio application record. Thus, responsive comments were and are appropriate under the Commission's rules.

Second, as a certified frequency coordinator, IMSA is responsible to assist both applicants and the Commission in licensing matters, including rendering assistance in addressing licensing problems. In detailing the application history,[5] IMSA was attempting to bring relevant information to the Commission's attention.

Third, while Brooklyn did not ask for remedial action against IMSA, it both then and again in its Motion to Strike criticizes IMSA and its handling of this matter.[6] Whether remedial action was requested or not, IMSA has the absolute right to respond to allegations that it did not properly perform its responsibilities. In the event Brooklyn did not understand the explanation of events set forth in IMSA's Comments, the message is simple: IMSA attempted to guide Brooklyn through the coordination and application process, however Brooklyn (through its employees and/or agents and consultants) did not

---

[4] *See* Comments of IMSA at 3.

[5] Comments at 5-10.

[6] Motion at 2 ("IMSA failed to express why, under its direction and alleged assistance, it was unable to assist . . ." and "it has allowed its frequency coordination customer to be left adrift . . .")

timely respond to any advice or inquiry from IMSA. Brooklyn now seeks to play the blame-game, ignoring its own role in its situation and endeavoring to shift accountability to others. Neither IMSA, any other frequency coordinator, nor the Commission is responsible for the lack of follow through and timely action by Brooklyn. It is Brooklyn's employees and consultants who are responsible to prosecute its application; it is not the role of the frequency coordinator to play "Parent" and to nag Brooklyn's representatives to perform their jobs. Only Brooklyn and its employees and agents bear responsibility for its actions and inactions.

The fact that Brooklyn does not like the substance of IMSA's Comments responsive to its Petition for Reconsideration does not render those Comments inappropriate, unwarranted or in violation of some un-named Commission rule. The Motion to Strike should be denied.

Respectfully submitted,

INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION

Martin W. Bercovici
Keller and Heckman LLP
1001 G Street, NW
Washington, D.C. 20001
(202) 434-4144
Its Attorney

July 25, 2005

Certificate of Service

I, Tammy Hines, a Secretary at the law firm of Keller and Heckman, hereby certify that I have this 25th day of July, 2005 sent a copy of the foregoing Comments to the following:

Chief Jack Murphy
Chief of Police
7619 Memphis Avenue
Brooklyn, OH 44144

Charles P. Adams
Director of Emergency Management
Medina County, Ohio
555 Independence Drive
Medina, OH 44256

Paul M. Mayer
Region 33 800 MHz Chairman
Ohio Office of Information Technology
2323 West 5th Avenue, Suite 150
Columbus, OH 43204
Paul.Mayer@ohio.gov

Sandra L. Black
EMR Consulting
46 Allendale
Terre Haute, IN 47802

Tammy Hines

Tammy L. Hines