

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Amendment of Parts 1 and 17 of the Commission's ) WT Docket 08-61  
Rules Regarding Public Notice Procedures for )  
Processing Antenna Structure Registration )  
Applications )

**COMMENTS OF APCO**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following comments in response to the Commission's *Public Notice*, DA 08-1078 (released May 6, 2008) regarding a Petition for Expedited Rulemaking filed by CTIA, *et al.*<sup>1</sup> APCO also takes this opportunity to recommend consideration of alternative Antenna Structure Registration notification procedures that would prevent delays in the processing of public safety radio frequency applications.

Founded in 1935, APCO is the nation's oldest and largest public safety communications organization. Most APCO members are state or local government employees who manage and operate communications systems for police, fire, emergency medical, forestry conservation, highway maintenance, disaster relief, and other public safety agencies. APCO is the largest FCC-certified frequency coordinator for Part 90, Public Safety Pool channels, and appears regularly before the Commission on a wide variety of public safety communications issues.

The Commission initiated this docket to address issues related to its compliance with *American Bird Conservancy, Inc. v. FCC*, 516 F.3d 1027 (D.C. Cir. 2008), in which the court

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<sup>1</sup> Petition for Expedited Rulemaking filed by CTIA-The Wireless Association, National Association of Tower Erectors, National Association of Broadcasters, and PCIA-The Wireless Infrastructure Association (May 2, 2008).

ordered the Commission to establish notification procedures for Antenna Structure Registration (ASR) applications.<sup>2</sup> CTIA, *et al.* has filed a Petition for Expedited Rulemaking recommending a notice, comment and approval process for ASR applications and that objections against an ASR application should be filed as petitions to deny under the Commission's rules.

APCO's principal concern is that new procedures not cause delays in processing applications for public safety radio communications facilities under Part 90 of the FCC's rules. Prompt FCC processing of public safety radio applications is essential to avoid delays in system deployments, which are often driven by current system deficiencies and/or seasonal factors. For example, winter weather creates a short time window for mountaintop antenna site work, and Gulf Coast public safety systems must deploy prior to hurricane season to be effective.

State and local government public safety agencies often submit applications to the FCC for authority to build or expand radio systems used for police, fire, EMS, disaster relief, forestry, highway maintenance and other critical operations that protect the safety of life and property. When those applications involve antenna towers over 200 feet, the applicant must demonstrate that the tower is registered with the FCC, which in turn requires a Federal Aviation Administration (FAA) determination of no hazard to air navigation. Neither frequency coordinators (such as APCO), nor the FCC, will accept a Part 90 application that requires use of an antenna over 200 feet that has not been registered. Thus, delays in the registration process will in turn delay consideration of applications for new or modified public safety radio facilities.

APCO agrees with CTIA, *et al.*, regarding the need for a rulemaking proceeding to implement any new notification requirements. We also agree that the Commission's "petition to deny" rules and procedures should apply to objections to ASR applications.

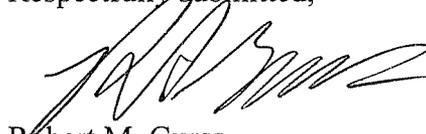
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<sup>2</sup> *Public Notice*, DA 08-1040, WT Docket 08-1040 (May 1, 2008).

However, to prevent application processing delays, we suggest that the Commission consider establishing a procedure for applicants to submit a “Notice of Intent to Submit Antenna Registration” and that such notices be published by the FCC in the *Daily Digest* or placed on the FCC’s website, satisfying the notice requirement mandated by the court. Unlike the actual antenna registration applications, the Notice of Intent would not require that applicants already have a “no hazard” determination from the FAA (which typically requires 45-60 days to obtain). Once the FAA determination is obtained (and assuming the passage of a specified number of days following the publication of the Notice of Intent), the applicant could then file its ASR application under current FCC procedures. The advantage of this approach is that it does not add any new delays in the application process as it would allow the notice period to run while the applicant seeks FAA approval.

APCO urges the Commission to conduct a rulemaking proceeding to address these issues and that the recommendations set forth above and in the CTIA, *et al.* petition be included in the notice of proposed rulemaking.

Respectfully submitted,



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May 9, 2008

## Certificate of Service

I, Robert Gurs, hereby certify that the foregoing Comments of APCO were served this 9th day of May 2008, by first class mail or e-mail, as indicated, to the following individuals at the addresses set forth below.

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