

**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) WT Docket 03-187
Processing Antenna Structure Registration)
Applications)

**COMMENTS OF APCO IN RESPONSE TO
PETITION FOR EXPEDITED RULEMAKING AND OTHER RELIEF**

The Association of Public-Safety Communications Officials-International, Inc.

("APCO") hereby submits the following comments in response to the Commission's *Public Notice*, DA 09-904 (released April 29, 2009) regarding a Petition for Expedited Rulemaking and Other Relief filed by the American Bird Conservancy, *et al.*, ("Petitioners") in the above-captioned proceedings.

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.

Petitioners have been engaged in a protracted battle before the Commission and in the courts regarding the environmental impact of radio transmission towers on migratory birds. While APCO claims no expertise on that specific, scientific issue, we are deeply concerned that the remedies proposed by Petitioners appear to be out of proportion to the alleged impact, and

that the procedures urged upon the Commission would prevent or delay the deployment of radio communications systems necessary for the protection of life, health and property.

State and local government public safety agencies across the nation regularly file applications with the FCC for new or modified facilities for their emergency radio communications systems. New sites are needed to improve coverage, expand capacity, and accommodate new and improved radio technology. The gradual migration of systems to higher frequency bands (700 MHz and 800 MHz) also requires more sites to provide comparable coverage. Timely processing of public safety applications is essential, as the proposed facilities are often intended to remedy immediate communications problems. Construction scheduling is also critical, especially where there are seasonal constraints (*e.g.*, the need to deploy systems in the Southeast prior to hurricane season, or to construct mountaintop sites in the West prior to winter snows).

State and local governments also operate with extremely limited funds (especially during economic downturns such as the present) and cannot afford additional FCC application-related burdens, such as conducting environmental assessment studies where there is no sound basis for doing so. Moreover, state and local governments are concerned that critical radio transmission sites may be rejected based upon highly speculative and unproven allegations regarding the impact of those sites on migratory birds.

One of the steps urged by Petitioners is that the FCC complete its rulemaking proceeding regarding public notice of Antenna Structure Registration (ASR) applications, as addressed in *American Bird Conservancy, Inc. v. FCC*, 516 F.3d 1027 (D.C. Cir. 2008). APCO filed comments on that issue supporting the recommendations of CTIA, *et al.* regarding the ASR application process and that objections against an ASR application should be filed as petitions to

deny under the Commission's rules.¹ APCO's comments also recommended additional procedures that would avoid unnecessary delays in obtaining FCC approvals for public safety radio system applications.

CONCLUSION

Therefore, for the reasons discussed above and elsewhere in the record, APCO urges the Commission to refrain from adopting unnecessary and overly burdensome requirements that would delay or prevent deployment of critical public safety radio communications facilities.

Respectfully submitted,

/s/

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¹ Comments of APCO in WT Docket 08-61 (filed May 9, 2008).