

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

In the Matter of)
)
Improving Public Safety Communications) WT Docket No. 02-55
in the 800 MHz Band)
)

**COMMENTS OF APCO, IACP AND IAFC
IN RESPONSE TO PETITION FOR DECLARATORY RULING**

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”), International Association of Chiefs of Police (“IACP”), and International Association of Fire Chiefs, Inc. (“IAFC”) (hereinafter “Public Safety Organizations”) hereby submit the following comments in response to the Commission’s *Public Notice*, DA 13-98, January 25, 2013, regarding a Petition for Declaratory Ruling (“Petition”) filed by Sprint Nextel Corporation (“Sprint”) in the above-captioned proceeding on January 22, 2013.

The Public Safety Organizations have participated jointly throughout this lengthy proceeding to ensure that the needs of our nation’s public safety agencies are fully addressed in all aspects of the 800 MHz band reconfiguration. These comments briefly address two issues raised in the Sprint Petition: the potential impact of Sprint’s request regarding the “anti-windfall” provisions and Sprint’s proposed reduction in the amounts covered by the required Letter of Credit.

As explained in the Petition, the original 800 MHz “bargain” granted Sprint significant amounts of spectrum outside of the auction process in exchange for Sprint paying all of the costs associated with the 800 MHz band reconfiguration. To the extent

that Sprint's costs are less than the assigned value of the spectrum it received, Sprint would be required to pay the difference to the United States Treasury in the form of an anti-windfall payment. Sprint argues in its Petition that its costs have now exceeded that threshold, eliminating any potential for anti-windfall payments.

The Public Safety Organizations take no position on Sprint's specific request. However, should the Commission grant the Petition, it should also relax many of the audit and accounting requirements implemented by the Transition Administrator to protect the Treasury against overpayments of reconfiguration expenses that could reduce the anti-windfall payment. Those requirements have in some cases imposed substantial administrative costs on public safety incumbents, diverting time and resources from other critical agency tasks. While Sprint will obviously have a continued interest in minimizing its costs and ensuring the legitimacy of all payments, the Commission will no longer have a need to protect the Treasury as there will no longer be a potential anti-windfall payment. That being said, the Commission and the Transition Administrator must continue their oversight role to ensure that public safety incumbents receive comparable replacement facilities and that Sprint pays all reasonable expenses related to the reconfiguration, pursuant to rules and policies previously adopted in this proceeding.

Sprint's Petition also seeks a reduction in the amount that must be covered by a Letter of Credit (LOC) guaranteeing that funds will be available to pay all remaining reconfiguration expenses. The Public Safety Organizations urge the Commission to scrutinize Sprint's request carefully to ensure that the LOC is adequate to address a worst case scenario. Sprint bases its proposed LOC amount in part on the Transition Administrator's metrics that document the range of reconfiguration expenses incurred so

far by incumbents of various sizes. The Commission's analysis should assume the worse, *i.e.*, that all of the reconfiguration costs still to occur will be at or above the highest percentile in the metrics. While the actual amount necessary to reconfigure the remaining incumbents will presumably be closer to the mean, this approach will ensure that those at the end of the line (*e.g.*, incumbents in the Mexican border region who have yet to begin reconfiguration) are not left without adequate funding to complete the task.

CONCLUSION

Therefore, we urge the Commission to address the Sprint Petition consistent with the comments set forth above.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.

INTERNATIONAL ASSOCIATION OF CHIEFS
OF POLICE

INTERNATIONAL ASSOCIATION OF FIRE
CHIEFS, INC.

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