

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

In the Matter of)
)
ASSOCIATION OF AMERICAN RAILROADS) WT Docket No. 14-75
NATIONAL FREQUENCY COORDINATION, LLC)
)
Requests for Certification to Coordinate 800/900 MHz)
Business/Industrial/Land Transportation Frequencies)

To: The Commission

**COMMENTS OF
AMERICAN ASSOCIATION OF STATE
HIGHWAY AND TRANSPORTATION OFFICIALS**

The American Association of State Highway and Transportation Officials, Inc. (“AASHTO”) through counsel and pursuant to Section 1.405 of the Commission’s Rules, 47 C.F.R. §1.405, hereby respectfully submits their comments in response to the requests of National Frequency Coordination LLC (“NFC”) and the Association of American Railroads (“AAR”) in the above-captioned proceeding.¹

I. BACKGROUND

A. The American Association of State Highway & Transportation Officials

AASHTO is a non-profit, non-partisan association representing all 50 states, the District of Columbia and Puerto Rico. Established in 1914, AASHTO is a standards setting organization and continues as an international leader in setting technical standards for all phases of highway

¹ http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0514/DA-14-653A1.pdf.

system development, including design, construction of highways and bridges, materials, maintenance and many other technical areas. AASHTO serves as a liaison between the state departments of transportation and the federal government in the areas of policy development, standards setting, and technical activities, all of which are the products of volunteer state department of transportation personnel who work through the AASHTO committee structure. AASHTO's committees support all transportation modes and represent the highest standard of transportation expertise in the country, addressing every element of planning, design, construction, and maintenance.

AASHTO is designated by the Federal Communications Commission as the only agency authorized to recommend or approve applications for radio frequencies in the Public Safety Highway Maintenance Pool. This authorization was subsequently extended to include all frequencies assigned to the Public Safety Frequency Pool and the SMR 800 MHz pool being vacated by Sprint-Nextel.

AASHTO is internationally recognized for its pioneering work in providing for the safety of the millions of travelers using highways, trains, ferries, airports and public transit systems daily. AASHTO develops recognized standards for the design and operation of roads, rail systems, ports and waterways, airport facilities and transit systems with the sole intent of protecting the traveling public. In its role of representing state departments of transportation, AASHTO directly supports and integrates with the police, fire and medical services operated by its members for the protection of life, health and property of those using the nation's multiple transportation systems. AASHTO is a founding member of the National Public Safety Telecommunications Council ("NPSTC") and an initial member of the Public Safety Spectrum Trust Corporation ("PSST"), which held the nationwide public safety broadband network

license. AASHTO has been selected to serve as a member of the Emergency Response Interoperability Center's Public Safety Advisory Committee ("ERIC PSAC"). AASHTO works with the other Frequency Advisory Committees ("FACs") on the Land Mobile Communications Council ("LMCC") and the Public Safety Communications Council ("PSCC") in setting policy and procedures for coordinating and assigning radio frequencies under Part 90 of the Commission's Rules.

B. The NFC and AAR Proposals

NFC has requested that it be certified by the Commission for "Private Land Mobile, 800-900 application preparation" coordination and various related services. NFC does not specify whether it seeks to be certified to coordinate Business/Industrial/Land Transportation applications, Public Safety Pool applications, or both.

AAR seeks to be certified as a coordinator for the 800 and 900 MHz Business/Industrial/Land Transportation Pools. AAR is presently designated as a Part 90 Frequency Advisory Committee by the FCC for frequencies below 800 MHz.

II. COMMENTS

A. Association Of American Railroads Request

AASHTO supports the request of AAR to become a certified 800/900 MHz Part 90 Frequency Advisory Committee. AAR has been an FAC for other Part 90 frequencies for many years, and unquestionably meets all of the Commission's criteria to expand those activities into the 800/900 MHz band.

B. National Frequency Coordination

AASHTO does not support the application of NFC to be an 800/900 MHz Part 90 Frequency Advisory Committee. It is not apparent that NFC meets the Commission's criteria for certification in several important areas.

NFC makes numerous claims in its request about its history and capabilities, without any supporting documentation. This is extremely important, as AASHTO is unaware of any involvement of NFC in the Part 90 licensing process prior to the filing of this request. For example, NFC says that “[o]ur team has extensive experience in spectrum management and frequency coordination.”² However, NFC provides no information whatsoever concerning the personnel that constitute its team, or specifics regarding the experience in spectrum management and frequency coordination.³

In 1982, Congress amended the Communications Act, and gave the Commission the authority to recognize FACs.⁴ In doing so, Congress encouraged the Commission to recognize a FAC which is most representative of the users of that service.⁵ The Commission has found that the primary factor in the selection of each frequency coordinator was whether the applicant represented a class of users eligible for licenses in the service the applicant proposed to coordinate.⁶ Even when the Commission later permitted competitive coordination within each

² NFC Request at 1.

³ To the extent that NFC supplements the record with additional information regarding its company, AASHTO reserves the right to submit further comments on the additional information.

⁴ 47 U.S.C. 332(b)(1).

⁵ *Private Land Mobile Radio Service, Report and Order*, PR Docket No. 83-737, 60 RR 2d 41 (1986) at para. 11; Conference Report No. 97-765, 97th Cong. 2nd Sess., August 19, 1982, at 53, reprinted in 1982 U.S. Code Cong. & Ad. News 2237.

⁶ *Id.* at para. 61; *United Telecom Council Informal Request for Certification as a Frequency Coordinator in the PLMR 800 MHz and 900 MHz Bands*, DA 01-944, released April 18, 2001 at para. 4.

service, the Commission emphasized that its decision was not a rejection of its 1986 requirement that each coordinator be representative of the users of the radio service in which it was certified.⁷

In this case, NFC has completely ignored the Commission's representativeness requirement. NFC has made no attempt to demonstrate that it is representative of any of the radio users eligible for either Public Safety or Business/Industrial/Land Transportation Pool frequencies. Without such a showing, and unless the Commission eliminates the requirement in a rule making proceeding, the Commission should be unable to certify NFC.

III. CONCLUSION

WHEREFORE, the premises considered, it is respectfully requested that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

AMERICAN ASSOCIATION OF
STATE HIGHWAY &
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⁷ *Id.* at para. 6; *Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them*, Second Report and Order, PR Docket No. 92-235, 12 FCC Rcd 14307 (1997) at para. 34.