

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

In the Matter of)
)
NATIONAL FREQUENCY COORDINATION, LLC) WT Docket No. 14-75
Request for Certification as a Part 90 Frequency)
Coordinator)

**COMMENTS OF THE INTERNATIONAL ASSOCIATION OF FIRE CHIEFS,
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION, AND THE FORESTRY
CONSERVATION COMMUNICATIONS ASSOCIATION**

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SUMMARY

The Forestry Conservation Communications Association (“FCCA”), the International Municipal Signal Association (“IMSA”), and the International Association of Fire Chiefs (“IAFC”) (together “Commenters”), oppose the request for certification to coordinate frequencies under Part 90 of the Commission’s Rules filed by National Frequency Coordination, LLC (“NFC”). NFC fails to satisfy the criteria outlined by the Commission to be certified as a frequency coordinator because it has (1) not demonstrated that it is representative of the users of the frequencies it proposes to coordinate; (2) not provided any details on its overall plan to coordinate the service; (3) failed to demonstrate that it has any prior experience coordinating frequencies or technical expertise in engineering land mobile stations; and (4) not provided any indication that it has nationwide coordination capabilities. Accordingly, the Commission should promptly deny the NFC Request.

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The Forestry Conservation Communications Association (“FCCA”), the International Municipal Signal Association (“IMSA”), and the International Association of Fire Chiefs (“IAFC”) (together “Commenters”), by their attorneys and pursuant to the Public Notice issued by the Federal Communications Commission (“FCC” or “Commission”)’s Wireless Telecommunications Bureau (“Bureau”) on May 14, 2014,^{1/} hereby submit their comments in response the above-referenced request for certification as a Part 90 frequency coordinator submitted by National Frequency Coordination, LLC (“NFC”).^{2/} As demonstrated below, NFC fails to satisfy the criteria outlined by the Commission to be certified as a frequency coordinator. Accordingly, the NFC Request should be promptly denied.

^{1/} See *Wireless Telecommunications Bureau Seeks Comment on Requests of National Frequency Coordination, LLC to be Certified as a Part 90 Frequency Coordinator and the Association of American Railroads to be Certified to Coordinate 800/900 MHz Band Business/Industrial/Land Transportation Frequencies*, Public Notice, WT Docket No. 14-75, DA 14-653 (rel. May 14, 2014) (“Public Notice”).

^{2/} See Letter from Lorrie Coffman, Deputy Director, National Frequency Coordination, LLC, to the Wireless Telecommunications Bureau, FCC, WT Docket No. 14-75 (dated Mar. 20, 2014) (“NFC Request”).

I. INTRODUCTION AND BACKGROUND

IMSA is a non-profit organization dedicated to the development and use of electric signaling and communication systems in furtherance of public safety. IMSA's approximately 12,000 members include representatives of Federal, state, county, city, township, and borough governmental bodies, as well as representatives of governmental bodies of foreign nations. IMSA works to improve the efficiency, installation, construction, and maintenance of public safety equipment and systems by increasing the knowledge of its members in several diverse technical fields, including public safety communications.

The 10,000-member IAFC is a professional association representing the leaders and managers of America's fire and emergency service. The IAFC represents the leadership of more than 1.2 million firefighters and emergency responders. IAFC members are the world's leading experts in firefighting, emergency medical services, terrorism response, hazardous materials spills, natural disasters, search and rescue, and public safety legislation. Since 1873, the IAFC has provided a forum for its members to exchange ideas and uncover the latest products and services available to first responders.

FCCA is a non-profit national trade organization that has, for over six decades, coordinated the use of frequency assignments within the Forestry Conservation spectrum. It makes available a full range of radio communications services for all public safety entities in addition to forestry conservation agencies, including related police, fire, and emergency medical functions of these agencies, operating in all 50 states.

Each of IMSA, IAFC, and FCCA is a certified coordinator for frequencies specified in Section 90.20(c) of the FCC's rules, and are among the recognized frequency coordinators for

the Public Safety Pool frequency assignments.^{3/} On March 12, 2012, IMSA, IAFC, and FCCA combined their frequency coordination operations in a new non-profit corporation – the Public Safety Coordination Associates – to streamline their coordination processes.^{4/} However, each of these entities maintains its own identity for the representation and training of its constituents.

The Public Notice solicits comments on two requests for certification to coordinate frequencies under Part 90 of the Commission’s Rules – one by NFC and another by the Association of American Railroads (“AAR”).^{5/} NFC requests FCC certification to provide nationwide frequency coordination services for all Private Land Mobile Radio (“PLMR”) applicants, including those for Public Safety Pool frequencies. Because the Commenters are frequency coordinators recognized by the FCC and seek to preserve the integrity of the frequency coordination process, particularly with respect to public safety channels, they are pleased to have this opportunity to submit the following comments.

II. THE NFC REQUEST FAILS TO SATISFY THE FCC’S CRITERIA FOR CERTIFYING FREQUENCY COORDINATORS

As the Public Notice recognizes, the Commission established criteria in 1986 for certifying frequency coordinators in the PLMR services.^{6/} As part of the certification process, the Commission specifically evaluates (1) whether the potential frequency coordinator is representative of the users of the frequencies it proposes to coordinate; (2) the entity’s overall plan to coordinate the service (*e.g.*, how frequency recommendations would be made and whether all applicants would be treated equally); (3) whether the potential frequency coordinator

^{3/} See 47 C.F.R. § 90.20(c).

^{4/} See IMSA Frequency Coordination Office Changes, <http://www.imsasafety.org/fccchanges.html> (last visited June 12, 2014).

^{5/} See Public Notice at 1; NFC Request at 1; Letter from Timothy J. Strafford, Assistant General Counsel, AAR, to Marlene Dortch, Secretary, FCC, WT Docket No. 14-75 (dated Mar. 25, 2014) (“AAR Request”). The Commenters limit their comments to the NFC Request; they do not object to the AAR request.

has any experience coordinating frequencies in the service involved or technical expertise in engineering land mobile stations; and (4) whether the entity has nationwide coordination capabilities.^{7/} The NFC Request, however, either ignores these factors completely or fails to provide sufficient detail for the FCC to evaluate its capabilities as a frequency coordinator.

A. NFC is Not Representative of the Users it Seeks to Coordinate.

First, NFC has not demonstrated that it is representative of the users of the frequencies it proposes to coordinate. As suggested in its *1986 Frequency Coordination Order*, the FCC has typically found an entity to be representative of the users it seeks to coordinate when the entity's membership includes such users or the entity demonstrates that it understands the unique needs of the user community. For instance, the Commission found that FCCA was representative of the Forestry Conservation Radio Service because its membership "is open to any agency that is eligible in the radio service."^{8/} The Commission also noted, in determining representativeness for the Special Emergency Radio Service, that IMSA "has shown particular sensitivity to special emergency needs in the past."^{9/} While the Bureau has determined that each certified frequency coordinator need not be required to represent a specific segment of eligible licensees in the

^{6/} See Public Notice at 1; *Frequency Coordination in the Private Land Mobile Radio Services*, Report and Order, 103 F.C.C.2d 1093 (1986) ("*1986 Frequency Coordination Order*").

^{7/} See *1986 Frequency Coordination Order* ¶ 70.

^{8/} *Id.* ¶ 74; see also *id.* ¶¶ 71, 73 (finding that Associated Public Safety Communications Officers, Inc. ("APCO") was representative of public safety users because it had over 6,000 members comprised of public safety communications officials, engineers, supervisors, and technicians that were employed by tax-supported agencies at all levels of government, and by organizations supplying these agencies with goods and services); *International Association of Fire Chiefs, Inc., and International Municipal Signal Association; Informal Request for Certification as a Frequency Coordinator for PLMR 800 MHz and 900 MHz Public Safety Frequencies and American Association of State Highway and Transportation Officials; Informal Request for Certification as a Frequency Coordinator for PLMR 800 MHz Public Safety Frequencies*, Order, 16 FCC Rcd. 14530, ¶ 17 (2001) ("*2001 IAFC/IMSA/AASHTO Order*").

^{9/} *1986 Frequency Coordination Order* ¶ 77.

PLMR service, it noted that coordinators should generally be representative of users eligible to be licensed for that spectrum.^{10/}

NFC falls far short of fulfilling these requirements. NFC has not demonstrated that it either represents public safety users specifically or PLMR users generally. Indeed, NFC has failed to make any statement about the types of entities that it represents, let alone indicate that it can represent public safety entities. In addition, NFC has not demonstrated that it has a particular sensitivity to the needs of public safety entities. To the contrary, NFC merely acknowledges that “frequency coordination is essential for anyone with a private radio system” and makes references to unspecified “clients.”^{11/} Without additional information, the Bureau cannot find that NFC meets the first prong of the FCC’s test, particularly since the Commission has “repeatedly stated that the most important criterion in choosing the coordinators is representativeness.”^{12/}

Similarly, approving the NFC Request would be inconsistent with the Communications Act of 1934, as amended (the “Act”). Section 332 of the Act permits the FCC to utilize frequency coordination committees (*i.e.*, frequency coordinators) for coordinating and assigning frequencies in the private mobile radio services.^{13/} In implementing this authority, Congress “encourage[d] the Commission to recognize those frequency coordinating committees for any given service which are most representative of the users of that service.”^{14/} As noted above, however, NFC has not demonstrated that it is representative of the users of the service it seeks to

^{10/} See *American Mobile Telecommunications Association, Inc. and American Trucking Associations, Inc.; Petition for Transfer of Frequency Advisory Committee Certification*, Memorandum Opinion and Order, 16 FCC Rcd. 12416, ¶ 13 (2001) (“2001 AMTA/ATA Order”).

^{11/} See NFC Request at 2-3.

^{12/} 1986 *Frequency Coordination Order* ¶ 98.

^{13/} See 47 U.S.C. § 332(b)(1).

^{14/} 1986 *Frequency Coordination Order* ¶ 11 (internal citation omitted).

coordinate, nor, as discussed below, has NFC satisfied any of the other selection criteria set forth by the FCC pursuant to the Act that are necessary for certification as a frequency coordinator.

The Commenters recognize that since the adoption of the *1986 Frequency Coordination Order*, the Commission and Bureau have found that allowing additional entities to provide frequency coordination services could serve the public interest by lowering coordination fees and fostering better services.^{15/} However, the Commission has also specifically cautioned that its policy of certifying multiple coordinators is “not a rejection of its requirement that each coordinator be representative of the users of the radio service in which it was certified”^{16/} and that the “integrity of the radio communications in the Public Safety Pool must be maintained without fail.”^{17/} Indeed, recognizing that utilizing knowledgeable frequency coordinators is particularly important for public safety communications,^{18/} the Commission has endeavored to retain only one frequency coordinator for certain public safety radio services.^{19/}

^{15/} See, e.g., *Industrial Telecommunications Association; Informal Request for Certification as a Frequency Coordinator for Part 90 929-930 MHz Paging Frequencies and PLMR Special Emergency Frequencies Below 512 MHz*, Order, 19 FCC Rcd. 7614, ¶¶ 4-7 (2004) (“*2004 ITA Order*”); *Informal Request for Certification as a Frequency Coordinator in the PLMR 800 MHz and 900 MHz Bands*, Order, 16 FCC Rcd. 8436, ¶ 9 (2001) (“*2001 UTC Order*”); *2001 AMTA/ATA Order* ¶ 2; *2001 IAFC/IMSA/AASHTO Order* ¶ 5.

^{16/} *2004 ITA Order* ¶ 5.

^{17/} *2001 IAFC/IMSA/AASHTO Order* ¶ 6.

^{18/} See *Industrial Telecommunications Association; Informal Request for Certification To Coordinate the Power Radio Service, Railroad Radio Service, and Automobile Emergency Radio Service under Part 90 of the Commission’s Rules*, Order, 19 FCC Rcd. 21664, ¶ 4 (2004) (“[M]aintaining the integrity of spectrum used for such public safety purposes is extremely important and using coordinators who are knowledgeable with such special communications needs is the best way to protect these systems.”) (internal quotations and citation omitted).

^{19/} See *id.* ¶ 10 (“We believe the public interest and safety is best served by preserving the current coordination system and not introducing true competitive coordination on frequencies formerly allotted to the [Railroad Radio Service], [Power Radio Service], and [Automobile Emergency Radio Service].”); FCC, Licensing: Frequency Coordinators, http://wireless.fcc.gov/services/index.htm?job=licensing_3&id=industrial_business (last visited June 12, 2014).

B. NFC Has Not Provided an Overall Coordination Plan.

Second, NFC has not provided any details on its overall plan to coordinate the service. In determining whether the second prong of its analysis has been satisfied, the Commission generally evaluates whether an entity has specifically detailed how it will either perform the coordination itself or how it will utilize a third party to coordinate frequencies. For instance, the FCC found that an entity provided a sufficient overall coordination plan where the entity explained that it had developed a frequency coordination manual, implemented a centralized automated frequency coordination system data base, and employed the necessary staff.^{20/} Where similar information was not provided, the Bureau found that an entity provided a satisfactory coordination plan by explaining that it will use an experienced engineering firm to perform the technical analyses needed to provide state-of-the-art frequency recommendations.^{21/}

NFC, however, has not adequately explained how it will perform any frequency coordination activities. For example, NFC has not indicated that it has developed a frequency coordination guide or provided any information about its intended coordination procedures such as how it will make frequency recommendations or whether all applicants will be treated equally.^{22/} NFC states that it has an internal software solution for frequency coordination – Q-Comm.^{23/} However, NFC’s description of Q-Comm demonstrates that the software is optimized for filing FCC applications, not frequency coordination. As NFC notes, Q-Comm allows NFC’s clients “ease of use in submitting the FCC [Form] 601 and required schedules” and “provides

^{20/} See *1986 Frequency Coordination Order* ¶ 71.

^{21/} See *2001 AMTA/ATA Order* ¶ 14.

^{22/} Cf. AAR Request at 2-3 (explaining that it will “examine the potential for harmful interference . . . and will prepare a contour analysis if affected stations are detected within the applicable separation distances prescribed by the Commission’s rules).

^{23/} See NFC Request at 1-2.

notification services which advises (sic) clients by email when applications are filed with the FCC which could impact the client.”^{24/}

In addition, NFC has not specifically stated that it has employed anyone, either internally or externally, to perform frequency coordination. NFC reports that it will rely on regionally-based frequency coordinators to assist with frequency coordination.^{25/} However, NFC fails to sufficiently explain how the regional frequency coordinators will fit into its overall coordination plan other than to state that the regional coordinators will ensure that the maps and data used will be current. Moreover, although the Commission has supported the use of regional coordinators, it has done so when the potential frequency coordinator has indicated that it will also review the applications and take an “active” role in post-licensing conflicts, ensuring that the interests of all parties will be considered.^{26/} Indeed, both the FCC and the Bureau have emphasized that the frequency coordinator should have ultimate control over the frequency coordination process.^{27/} NFC notes that it will provide “quality control processes in checking application packages for completion and correctness,”^{28/} among other things, but these tasks hardly qualify as “active” oversight over the frequency coordination process.

^{24/} *Id.* While NFC asserts that it provides “[e]ngineering studies” through its Q-Comm software, these studies appear related to “interference trouble-shooting,” not frequency coordination. *Id.* at 2.

^{25/} *See id.* at 3.

^{26/} *See, e.g., 1986 Frequency Coordination Order* ¶ 80.

^{27/} *See* Letter from Ralph A. Haller, Chief, Private Radio Bureau, FCC, to Susan Dobronski, Teletech, Inc., attached to, *Teletech, Inc. Petition to Decertify IAFC, IMSA and SEFCC as Frequency Coordinators in the Fire and Special Emergency Radio Services*, Order, 5 FCC Rcd. 2887 (1990) (“A coordinator, in summary, has wide latitude to contract all or some of its coordination activity to a contractor, so long as it maintains reasonable oversight and control.”); *2001 AMTA/ATA Order* ¶ 14.

^{28/} NFC Request at 3.

C. NFC Does Not Have the Experience or Expertise Necessary to Coordinate Frequencies.

Third, NFC has failed to demonstrate that it has any prior experience coordinating frequencies or technical expertise in engineering land mobile stations. In the majority of cases where the FCC has approved a request to be a frequency coordinator, the frequency coordinator has already had many years of experience coordinating frequencies. For instance, in approving the Utilities Telecommunications Council (“UTC”) as a frequency coordinator in the PLMR service for 800 MHz and 900 MHz Business and Industrial/Land Transportation frequencies, the Commission found that “UTC has been providing frequency coordination services for over thirty-five years, predating its formal certification as a frequency coordinator.”^{29/} In instances where the entity does not have prior experience as a frequency coordinator, the Commission and Bureau have evaluated whether the requesting party has the necessary technical expertise itself to perform frequency coordination or employs those that do. For example, the Bureau found that an entity had the necessary technical experience where it utilized engineers and its coordinating staff collectively had approximately forty years of coordinating experience.^{30/} Similarly, the Commission determined that an entity, which did not have prior experience itself or possess in-house engineering capabilities, had the necessary experience because it formed a frequency coordination committee composed of individuals experienced in private land mobile communications.^{31/}

^{29/} 2001 UTC Order ¶ 11; see also 2001 IAFC/IMSA/AASHTO Order ¶ 17 (“Regarding AASHTO, FCCA and IAFC/IMSA’s experience and expertise, we note that these entities have been providing frequency coordination services for over forty years, predating formal certification as frequency coordinators.”); 2004 ITA Order ¶ 16.

^{30/} See 2001 AMTA/ATA Order ¶ 15; see also 1986 Frequency Coordination Order ¶ 97 (finding that an entity had technical expertise because it “maintain[ed] a full engineering staff supported by state-of-the-art automation equipment”).

^{31/} See 1986 Frequency Coordination Order ¶ 83.

While NFC asserts that it has “extensive experience in spectrum management and frequency coordination,”^{32/} it provides little support for this assertion other than to state that its “business model includes frequency coordination for Private Land Mobile.”^{33/} In fact, NFC’s assertion is belied by its own description of its services. As NFC notes, it has experience with “800-900 application preparation, 601 form and appropriate schedules, FAA Tower registration form 7460-1, FCC Form 854, Transfer of Control, Assignment of Authorization, and Procedures for Mergers, Tower Construction Notification Filing (Schedule K) and scalable internal system coordination.”^{34/} NFC provides a laundry list of its services related to filing applications, but offers no examples of its past frequency coordination practices. And, unlike other frequency coordinators, NFC has no proven years of experience as a frequency coordinator on which it can rely.^{35/}

Similarly, NFC has not demonstrated that it has the technical expertise to coordinate frequencies or will employ entities with the necessary technical expertise to coordinate frequencies. To the contrary, NFC has provided no information on its internal staff, such as their years of experience, or the engineers, if any, that it will utilize to provide frequency coordination services.^{36/} NFC merely notes that it was founded in 2013 and explains that it offers a variety of FCC application services, including application preparation, filing, and tracking. To the extent NFC states that it will rely on regionally-based coordinators, it similarly does not provide any information on their experience or expertise.

^{32/} NFC Request at 1.

^{33/} *Id.* at 2.

^{34/} *Id.*

^{35/} *Cf.* AAR Request at 3-4.

^{36/} *Cf. id.* at 4.

D. NFC Has Not Demonstrated Nationwide Capabilities.

Finally, NFC has not provided any indication that it has nationwide coordination capabilities. In evaluating this factor, the Bureau has explained that it looks at the availability of a nationwide database of users in the services it proposes to coordinate and whether that database is automated.^{37/} Since the FCC now has a publicly available licensing database, the Bureau will find that an entity has the ability to provide coordination services throughout the nation if it intends to use that database.^{38/} While NFC reports that it has a database of users and acknowledges that it has access to the FCC's database,^{39/} it does not affirmatively indicate how, or even if, it will rely on the FCC's database to provide nationwide coordination services or otherwise notify the FCC that it has nationwide coordination capabilities.^{40/} To the contrary, merely asserting that it has a database of users "both internal and external" should not give the Bureau any comfort that NFC is able to access all the relevant records necessary for effective coordination.

^{37/} See 2001 AMTA/ATA Order ¶ 16.

^{38/} See *id.*

^{39/} See NFC Request at 1-2.

^{40/} Cf. AAR Request at 4-5.

III. CONCLUSION

For the reasons discussed herein, NFC has failed to satisfy each of the four prongs the Commission requires an applicant to demonstrate for certification as a frequency coordinator. The Commenters therefore respectfully request that the Bureau expeditiously deny the NFC Request.

Respectfully submitted,

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