

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Requests of National)
Frequency Coordination, LLC to be Certified as) WT Docket No. 14-75
a Part 90 Frequency Coordinator)

REPLY COMMENTS OF THE UTILITIES TELECOM COUNCIL

Pursuant to Section 1.405 of the Commission’s Rules, the Utilities Telecom Council (“UTC”) hereby files the following reply comments in response to the Commission’s Public Notice inviting comment on the request of National Frequency Coordination, LLC (NFC) to be certified as a Part 90 Frequency Coordinator.¹ UTC opposes the request of NFC because it has failed to satisfy the Commission’s criteria for certification of a frequency coordinator. Specifically, it has failed to sufficiently demonstrate its representativeness, its overall coordination plan (including how recommendations would be made and equality of applicant treatment), its experience coordinating frequencies in the service or technical expertise, and its nationwide coordination capability.²

I. Introduction and Background

UTC is the international trade association for the telecom and information technology interests of electric, gas and water utilities and other critical infrastructure industries (CII). Its members include large investor-owned utilities that serve millions of customers across multi-state service territories, as well as smaller municipal and cooperatively organized utilities that may serve only a few thousand customers in isolated communities and remote areas across the country. UTC’s members – large and small – all have

¹ *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 (May 14, 2014)(hereinafter “Public Notice”).

² The criteria the Commission established in 1986 for PLMR frequency coordination certification were (a) representativeness of the users of the frequencies to be coordinated, (b) the entity's overall coordination plan (including how recommendations would be made and equality of applicant treatment), c) the entity's experience coordinating frequencies in the service or technical expertise, and d) its nationwide coordination capability.

one thing in common: they own, manage and control extensive communications networks that they use in support of their core missions to deliver energy and water services safely and effectively.

UTC is an FCC-certified frequency coordinator for the land mobile bands below 512 MHz and more recently in the 800 and 900 MHz bands, as well as the Part 90 929-930 MHz paging frequencies and PLMR Special Emergency frequencies below 512 MHz.³ When the Commission certified UTC to coordinate the bands below 512 MHz and, later, the 800 and 900 MHz bands, it did so because it recognized that UTC represented a substantial class of Part 90 eligible entities, and that UTC possessed the other requisite qualifications in terms of experience and expertise, as well as its overall coordination plan and nationwide coordination.⁴

At the same time that it certified UTC to coordinate the 800 and 900 MHz bands, the Commission also invited other existing coordinators to seek certification to coordinate frequencies in the 800 and 900 MHz band as well. The Commission invited them to seek certification because these other existing “certified coordinators are representative of classes of users of the latter frequencies,” and they have demonstrated their experience and expertise by providing certification services for an extended period of time, long before they were certified to do so in 1986.⁵ Also, because of their extensive experience in coordinating frequencies, the Commission expected that these entities would retain their nationwide capability for continued use in coordinating frequencies below 512 MHz, so that they could be used to coordinate 800 MHz and 900 MHz PLMR frequencies, as well.⁶

None of this is true of NFC. Unlike UTC and the other coordinators that the FCC has certified to coordinate frequencies in the past, NFC is not an existing coordinator. It does not represent any class of

³ Wireless Telecommunications Bureau Announces United Telecom Council and MRFAC, Inc. are Certified as Frequency Coordinators for Part 90 929-930 MHz Paging Frequencies and PLMR Special Emergency Frequencies Below 512 MHz, DA 04-2452 (Aug. 4, 2004).

⁴ Frequency Coordination in the Private Land Mobile Radio Services, *Report and Order*, PR Docket No. 83-737, 103 FCC 2d 1093, 1132 ¶ 80. (1986) (*Frequency Coordination Report and Order*). See also United Telecom Council, *Order*, 16 FCC Rcd 8436, 8443 ¶11 (WTB PSPWD 2001)(“UTC Order”).

⁵ *UTC Order* at ¶12.

⁶*Id.* at ¶13.

eligible users of Part 90 frequencies. It has not demonstrated any of the requisite experience or expertise to coordinate frequencies. Finally, it has not shown that it has an overall plan (including how recommendations would be made and equality of applicant treatment), let alone that it is capable of coordinating Part 90 frequencies nationwide. Therefore, the Commission should deny NFC's request for certification to coordinate Part 90 frequencies, as more fully explained below.

II. NFC is not representative of an identified class of Part 90 eligible users.

While the Commission has promoted a policy of competitive coordination, it has expressly stated that this policy is not a “not a rejection of its requirement that each coordinator be representative of the users of the radio service in which it was certified.”⁷ Instead, this policy was based upon direction from Congress, which “encourage[d] the Commission to recognize those frequency coordinating committees for any given service which are most representative of the users of that service.”⁸ Accordingly, the Commission has “repeatedly stated that the most important criterion in choosing the coordinators is representativeness.”⁹

As applied here, NFC fails to make any claim of representativeness, let alone substantiate it. Instead, it merely states that “frequency coordination is essential for anyone with a private radio system” and makes references to unspecified “clients.”¹⁰ It is unclear who, if anyone, that NFC represents. What little that can be gleaned from the record in this regard is based on comments filed by the Land Mobile Communications Council, which notes that NFC shares the same physical address as TrueNet Communications, Inc. and that NFC shares many of the same principals as Spectrum Network Group, LLC (“SNG”), M2M Spectrum Networks, LLC, (“M2M”), and Spectrum Acquisition Group, LLC

⁷ 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, ¶5 (2004) (“*2004 ITA Order*”).

⁸ *Frequency Coordination Report and Order*, ¶ 11 (internal citation omitted).

⁹ *Id.* at ¶98.

¹⁰ See NFC Request at 2-3.

("SAG").¹¹ Moreover, many of these entities have applied for licenses with the FCC, as the LMCC points out in its comments.¹² As described below, this raises more questions about its overall plan for coordination (including how recommendations would be made and equality of applicant treatment) than it answers about its representativeness of a significant class of Part 90 radio users.

III. NFC has not demonstrated that it has an overall plan for coordination, including how recommendations would be made and equality of applicant treatment.

The second part of the Commission's four-part test for certification of coordinators requires the party to demonstrate that it has an overall plan for coordination, including how recommendations would be made and equality of applicant treatment.¹³ As some of the comments point out, the Commission has approved certification 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; and where it explained that it will use an experienced engineering firm to perform the technical analyses needed to provide state-of-the-art frequency recommendations.¹⁴

Here NFC has provided no plan whatsoever. The only reference to a plan is that the company was "formed in 2013 after considerable business planning and analysis in applying resource knowledge, skills and abilities within the Wireless Telecommunication, Spectrum Management and public sector."¹⁵ While it does describe its products and services, including an internal software solution by Q-Comm,¹⁶ it does little to describe specifically how recommendations would be made or how equality of applicants would be maintained. What little it does state is that it "is compliant with the FCC and 'In the Matter of Frequency coordination' in providing frequency coordination in a non-bias and non-discriminatory

¹¹ Comments of the Land Mobile Communications Council in WT Docket No. 14-75 at 5-7 (filed June 13, 2014).

¹² *Id.* at 7.

¹³ *See* Public Notice at 1.

¹⁴ Comments of International Association of Fire Chiefs, International Municipal Signal Association and the Forestry Conservation Communications Association in WT Docket No. 14-75 at 7-8 (filed June 13, 2014).

¹⁵ NFC Request at 1.

¹⁶ *Id.* at 2.

basis.”¹⁷ NFC adds that it “[p]roviding [sic] requested services to every client who requires assistance,” and that it “has developed [its] general fee schedule which represents the cost of providing services,” as well as that it “provides quality control processes in checking application packages for completion and correctness, filing the application and handling returns, introduction of new technologies and handling post-incising conflicts and interservice sharing requests.”¹⁸ These conclusory and unsupported statements fall woefully short of a plan, particularly one that would address the questions of potential bias that have been raised by comments on the record.¹⁹

IV. NFC lacks experience and expertise to coordinate Part 90 frequencies.

NFC has also failed to demonstrate that it has the experience and expertise to coordinate Part 90 frequencies. In its request, NFC states that “[its] team has extensive experience in spectrum management and frequency coordination,” and that it “also has regionally based Frequency Coordinators to accommodate local requirements.”²⁰ NFC goes on to state “[a]dditionally [sic], NFC has past performances with the public sector specifically with the FCC in [sic] different capacity.”²¹ As UTC has noted above with regard to the dearth of a plan, these statements regarding its expertise are conclusory, unsupported, and as LMCC points – filled with typographical and grammatical errors.²² Hence, they also fall short of the necessary proof of experience and expertise required under the Commission’s four-part test for certification.

V. NFC has failed to show it is capable of nationwide coordination.

NFC also fails the fourth and final part of the test for certification, because it has not shown that it has the capability to provide nationwide coordination. About the only thing in its request that comes

¹⁷ *Id.* at 3.

¹⁸ *Id.*

¹⁹ *See* Comments of the LMCC at 7.

²⁰ NFC Request at 1.

²¹ *Id.*

²² Comments of LMCC at 7.

close to addressing this criteria is NFC's statement that it "will utilize regionally based coordinators to ensure typical data relating to topography, detailed land maps, charts are current and reference the Federal Aviation Agency (FAA) reports," and that it "has worked with a manufacturer in the design and manufacturing of Land Mobile Radio's." Again, UTC submits that this falls short of the required level of proof to demonstrate its capability to provide nationwide coordination.

CONCLUSION

For all of these reasons, UTC urges the Commission to deny the request for certification by NFC. Thank you for the opportunity to comment on this matter.

Respectfully submitted,

SS

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