



APCO REPORTS

Timely information of special interest the public safety communications community

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

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FCC Orders Freeze on Inter-Category Sharing

Follows is the text of the FCC Order:

1. On March 1, 1995, the Wireless Telecommunications Bureau received a stay request from APCO with respect to inter-category sharing by non-public safety entities in the 800 MHz Public Safety channels. The Industrial Telecommunications Association, Inc. (ITA) opposes this request. For the reasons stated below, we [FCC] have decided to place a freeze on the filing of new applications for inter-category sharing on all private mobile radio service (PMRS) frequencies in the 806-821/851-866 bands.

2. APCO has requested that the Commission place an immediate hold on inter-category sharing by non-public safety entities. The Commission's Rules, however, currently allow a Business or Industrial/Land Transportation (I/LT) entity to obtain a license in the Public Safety Category if certain criteria are met. Inter-service sharing is permitted if the channel being sought is currently unoccupied and if there are no channels available in the applicant's "home" category.

3. Currently, 800 MHz SMR licensees may be licensed on the 150 channels in the General Category or licensed under our inter-category sharing rules on 100 channels in the I/LT and Business Categories (known as "Pool Channels.") There has been steep rise in SMR demand for out-of-category assignments because the Commission imposed a freeze on the acceptance of 800 MHz applications on 280 SMR category channels (except for applications for transfer or assignment of existing SMR facilities). This, in turn, has had a domino effect with other PMRS applicants seeking out-of-category license assignments in the 806-821/851-866 MHz bands, specifically Business and I/LT applicants seeking inter-

category sharing of the Public Safety category channels. If the "Pool Channels" remain available to SMR licenses, and not subject to auctions, demand for out-of-category assignments by SMR applicants seeking to avoid auctions may render these channels unavailable to other Part 90 services that need them and are currently eligible for them. In view of this situation, the Commission has undertaken a rule making proceeding in which it is considering whether the availability of inter-category sharing channels to SMR licensees should be limited and also whether other Part 90 services should be restricted from future eligibility for licenses on SMR Category channels.

4. In its spectrum allocation deliberations, the Commission is specifically considering whether to make a clear demarcation between the allocation of spectrum for SMR and for other Part 90 services in order to eliminate the risk of SMR encroachment on non-auctionable spectrum allocated for PMRS purposes. Included in the PMRS category are public safety radio services which include Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, and Emergency Medical Radio Services. It is the continued availability to the public service community of the frequencies allocated to these services which is of concern to APCO. Congress also is concerned with the adequacy of spectrum to meet the communications needs of public service agencies. In response to a legislative request, the Commission is continuing to ensure that adequate frequencies are made available to public safety licensees.

5. As noted by APCO, there has been a substantial
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increase in 800 MHz SMR applications on all the 150 General Category channels, as well as on an inter-category basis on the 800 MHz Business and I/LT categories. Because of the pressure placed on the Business and I/LT categories by the SMR applications, there has been a dramatic increase in the number of Business and I/LT entities filing applications for inter-category sharing to use Public Safety channels in the 806-821/851-866 MHz bands. In fact, as of February 15, 1995, non-public safety entities have sought frequency coordination for approximately 300 license applications on 70 Public Safety Pool channels.

6. ITA opposes APCO's request asserting that it is a ". . . cavalier approach to elimination of a long-standing and beneficial rule . . ." In fact, ITA submits that public safety entities themselves benefit from the inter-category rules. ITA further contends that the stay request is merely a reiteration of APCO's long-standing objection to the inter-category sharing rules that have played a critical role in promoting efficient use of the 800 MHz channels for all eligible entities. In ITA's view, current rules already provide a degree of protection to public safety entities, and it would be contrary to the public interest to limit, in any way, the compelling public benefits that result from inter-category sharing.

7. We [FCC] believe that the current situation warrants a freeze on new applications for the inter-category sharing of all PMRS frequencies in the 806-821/851-866 MHz band. With regard to Public Safety, although these frequencies are fully occupied in and near most metropolitan areas and therefore

are not available for inter-category sharing, there are some channels that remain available in less populated, but rapidly growing parts of the country. Public Safety agencies view these channels as resources to meet many of their future radio spectrum needs. Other PMRS licensees, such as those in the Business and I/LT categories noted by ITA, also rely on their channels to meet communications needs. Unless we [FCC] immediately freeze inter-category sharing of the PMRS frequencies in the 800 MHz band, the successful resolution of the spectrum allocation issues raised in PR Docket No. 93-144 and by the public safety community could be compromised.

8. Freezing acceptance of new inter-category sharing applications does not eliminate, as alleged by ITA, the inter-category rules. This temporary action merely allows for resolution of the Part 90 spectrum allocation issues in the appropriate rule making proceeding. In fact, ITA has filed comments, and thus participated, in that proceeding. Whether the inter-category sharing rules adopted in 1982 continue to serve public interest must be addressed in the context of the Commission's new regulatory structure developed more than a decade later.

9. Accordingly, IT IS ORDERED that the Request for Stay filed by APCO IS GRANTED to the extent indicated and acceptance of applications for inter-category sharing of frequencies allocated to the Public Safety, Industrial/Land Transportation, and Business Services IS SUSPENDED effective April 5, 1995. Applications filed prior to April 5, 1995, will be processed.

Pressure On FCC To Explain Study

The recent action by the Commission to freeze inter-category sharing comes on the heels of recent pressure from APCO and Capitol Hill for the FCC to put public safety on the forefront of spectrum issue concerns. APCO's response to the recent *Meeting State and Local Government Public Safety Needs Through The Year 2010* report spawned a flurry of questions to the Commission regarding the validity of the report.

Rep. Harold Rogers, (R-KY), Chairman of the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies in the House Appropriations Committee, recently cited APCO's response to the report and agreed that the Commission failed to

identify the needs of public safety. Furthermore, Rogers instructed FCC Chairman Reed Hundt to get back with him within three weeks from that meeting (which took place March 22, 1995) to describe how the FCC planned to address public safety's spectrum needs.

Other voices from the Hill included testimony by FBI Assistant Director William E. Baugh Jr., who testified on the same day, that the FBI ". . . depends upon radio spectrum for tactical operational support in nearly every category of FBI investigation, from counter-narcotics to violent crime to organized crime to counter-terrorism. . ." Baugh further com-

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mented later in his statement that “. . . scarcity of frequencies is not a recent phenomenon; the demand for spectrum allocation predates the current efforts to provide more spectrum for emerging communications technologies. . .” (i.e. NCIC 2000).

APCO is supportive of the efforts of legislators on Capitol Hill to serve notice to the Commission that public safety is their top priority.

Most recently, FBI Director Louis J. Freeh testified before the House Judiciary Committee, Subcommittee on Crime in wake of the Oklahoma City bombing.

In his opening statement he said “law enforcement must have the ability to communicate rapidly by radio and other forms of wireless communications. Local, state, and federal law enforcement officers and agencies must be able to talk among themselves, so that a state trooper of America’s highways — like Oklahoma — has the full benefit of law enforcement’s knowledge as he approaches a car with a suspect in it.” During Freeh’s question and answer session, Rep. Henry Hyde (R-IL) asked him if, in effect, there was adequate public safety spectrum available. The Director replied that there was not.

APCO Files Opposition to ITA’s Request for Clarification

As stated in the Freeze Order, ITA filed opposition to the freeze on inter-category sharing. APCO strongly opposes ITA’s position and feels that it is unwarranted. ITA contends that APCO requested the freeze as “merely a reiteration of APCO’s long-standing objection to the inter-category sharing rules”. The fact is, APCO does support the concept of inter-category sharing in that there are “legitimate” users who need spectrum that may not be in use by a public safety agency in a particular area. APCO believes that ITA failed its own constituency by allowing speculators to apply for all available spectrum in many areas of the country with little or no plans to construct usable systems in a timely manner. The speculators simply “grabbed” as much spectrum as they could before it was completely depleted. The “domino effect” basically left public safety agencies with no available spectrum.

Many of the applications received by APCO for inter-category sharing in the 800 MHz band contain locations that have no antenna sites, that are technically impossible (i.e. loading 300 frequencies on one tower), co-channel stations 10 miles apart, most carry Effective Radiated Power (ERP) of 1000 watts, and other obvious technical concerns. APCO believes that many of these speculative applications, which

were approved by Business and Industrial/Land Transportation (“I/LT”) coordinators, are simply “bogus”.

APCO has made efforts to seek sanctions to these bogus applicants so that the legitimate business users can have adequate channels made available for legitimate use. This would, in effect, allow public safety agencies to claim some of the channels that were encroached upon by the Business and I/LT community. APCO does not dispute the need for legitimate use of these channels by non-public safety entities. ITA has offered solutions such as allowing only “legitimate” users to file for inter-category sharing. This implies that previous applications submitted to the FCC were, in fact, non-legitimate. APCO does not believe that simply promising to only allow “legitimate” business applications through will achieve our goal of keeping the SMR explosion from affecting public safety. The “legitimate” users need only sell out to the commercial wide area users at a choice rate at some point in the future. This is merely another attempt to circumvent the process of using the Business and I/LT categories to encroach upon public safety channels leaving the American public at risk.

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