

# APCO REPORTS



## ASSOCIATED PUBLIC-SAFETY COMMUNICATIONS OFFICERS, INC.

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**5,000 ATTEND 58TH APCO ANNUAL CONFERENCE & EXPOSITION IN SEATTLE:** One of the highlights of the Annual Conference & Exposition in August was the annual Washington Regulatory Panel. Panel moderators were John Lane and Robert Gursr of Wilkes, Artis, Hedrick & Lane, APCO's counsel. Panelists were:

**Kent Nakamura** -- the Counsel to the Private Radio Bureau. He's been a legal advisor to two different FCC Commissioners and was Assistant General Counsel for Administrative Law, Deputy Chief of the Tariff Division of the Common Carrier Bureau. He was in private practice and at one time was with the firm that represented APCO and he did APCO work in his early years of private practice.

**Michelle Farquhar** -- the Senior Legal Advisor to FCC Commissioner Duggan. She has served as a special assistant to two general counsels at the FCC. She also was with the Mass Media Bureau.

**Robert Mayher** -- with the NTIA which is part of the Department of Commerce, which is the executive branch regulator and manager of communications, and is the telecommunications advisor to the President on matters of operations and policy. He is an international expert on spectrum management in the automation of spectrum management systems.

**Tom Stanley** -- the Chief Engineer at the Federal Communications Commission and Chief of the Bureau of Engineering and Technology. He worked for Bell Labs and the U.S. Army Signal Corps and worked for the Institute for Defense Analysis before he joined the FCC some 11 years ago. He has been reporting directly to the last three chairmen of the FCC and is the Chairman's advisor on international spectrum matters.

The following are the second and concluding part of the excerpts (the first part was in last month's APCO Reports) from the panel discussion:

**John Lane:** Has there been any forward planning on having private PCS systems to satisfy needs of people like state and local governments where it won't be a public or common carrier or even a private carrier system? Has there been any thought of providing spectrum for this purpose?

**Tom Stanley:** Most of the pressure for personal communications is coming from what I will call entrepreneurial spirit -- people who don't have a cellular license but wish they did. So it's very much use of trunked systems to provide, I'll call it, neat communications to people on the go. It's quite different from what I call private, in a sense that you were mentioning John.

There's a basic issue -- does the carrier have to be private or public, something like a cellular? I think the signal is pretty clear, that basically what we are talking about in terms of personal communications is largely carrier provided, whether it's private or common carrier, the lawyers are still fighting over which set of rules to use. We've been talking about this in public now maybe not quite a year. Personal communications has come to mean carrier provided.

We basically challenge the industries, almost all of them saying, if this doesn't meet some of the personal communications needs, make us an offer. Most recently, for example, I have heard from the utilities

community. The utilities community is telling us now that, for example, I won't say just meter reading, but in a lot of short-range communications that would be useful in, for example, in support of the utilities services. That's the sort of thing that 2 gigahertz may well be part of a future plan. But very little has come to us in this area.

**John Lane:** That's the reason I asked the question. Because I haven't heard any discussion of it. But it seems to me that there will be a rather important need on the part of state and local government entities that want closed systems for their own use, private systems, and not be dealing with third-party providers or common carriers. And just as you have in the mobile radio spectrum allocations, generally, you have private and you have common-carrier allocations. And I am raising the question to try to find out whether there is any forward planning or thinking along these lines. Michelle?

Michelle Farquhar: I was just going to respond that I was intrigued by the question because I was unaware of those types of needs in the PCS context and I don't think they have been brought to our attention, or considered to the extent that they should be. But that may be something to the extent you present us with a study of the future public-safety communications needs. That's a very important part of what you might include.

**John Lane:** Thank you. That's encouraging. . . . But we might want our own; be able to control our own, and build in certain security and protection for making sure it can withstand natural disasters and things like that. There are many government centers and large entities, and also I can see private industry, normal corporations with large headquarters and multi-units spread around in a local area that would want private systems as well. Just the way private radio developed so rapidly, because there was a tremendous need and demand while the public radio lagged over the years. The development was in the private sector and I look to PCS to move the same way . . . the Commission is willing to be flexible enough to provide some spectrum.

Kent Nakamura: You have, I think with the regional plans, you certainly have the superstructure or whatever if you chose to use it that way to, I guess, add on or create other kinds of regional communications systems. You have the five interoperable channels that you might build on . . . other possibilities.

**John Lane:** You know public-safety now uses all the common carrier services. They use all the cellular. They will take advantage of all the communications vehicles. But I raise the question because I think there is some thought that has to be given to private use.

Tom Stanley: Also maybe this, I don't think any of us have thought very deeply about it, but let me caution against what I will call "set aside." There are other approaches too. I think the Commission is a little uncomfortable with "set asides" right now. It means, in effect, for a particular purpose, you really have to justify your needs above others. And not that we wouldn't do it, but I know currently many entities would like to see a "set aside" in this 2 gigahertz arena, and the spectrum, although we think it's generous, probably would be eaten up pretty fast.

There may be other approaches to what I will call these public needs -- say through standards, or operational rules that if you get to the process early, something can be done about (it). . . . it's a challenge to the public-safety community, get in there early and look how personal communications is evolving. It's an issue maybe for new channels and new spectrum. But also it's rule time. And if there are rules that come out, it's likely to be digital, so the issue of security comes up. The notion of priority or any kind of preemption . . . somebody has to start thinking about that and planning. Right now there are no rules. Wouldn't it be nice if someone had gotten together, say maybe 20 or 30 years ago.

**John Lane:** And we missed the boat on cellular.

Tom Stanley: Exactly . . . let's not all miss the boat on PCS.

**Bob Gurs:** A lot of people in this room are concerned that one of the things that may have been left by the wayside is the impact on 9-1-1 services -- because if you have more and more people using mobile phones, it's going to be a lot harder to find out where they are calling from with the new enhanced systems that have been built over the years.

Is is an issue that might gain some attention at the Commission, and what might be the best avenue for this concern to be addressed, recognizing that we don't want to stop PCS because of this, but we want to work with it and find a way to make it work with 9-1-1 services.

Michelle Farquhar: I think one of the best ways to work through the network reliability council because it's an existing body and right now it's concerned more about common carrier provision of services. But I think it will have to expand into some of these new wireless technologies as well, as they become part of the existing infrastructure and because they will be making regular reports to the Commission over time. Because they have greater resources at the moment than we do, I think that would be a good place to start investigating that area. And that maybe should be added to their responsibilities in the near future.

**John Lane: I want to ask each of the panelists - from your perspective, what is the most critical issue facing the Commission in the near future that will have an impact on public-safety communications? Maybe there is more than one, but what do you think is the most critical issue?**

Kent Nakamura: I guess from my standpoint, the most critical issue is the question of resources. We keep getting cut . . . we lose people. We can't replace them. Things take longer and longer and longer to get done - to the extent that we try to be clever to try to do more with less. Sometimes we're stymied. I'm sure many of you out there are facing the same kinds of concerns.

Bob Mayer: Looking at it from the overall perspective of spectrum requirements that exceed really the spectrum that is available, these spectrum requirements are from many other services and they will sort of push their requirements so that not only do you have large requirements, you have to keep the priority of public-safety up there within those requirements.

Tom Stanley: During the 1980s, most of the Commission's resources, certainly in the engineering and technical area, were seriously drawn down. . . . for a while, every time two engineers would leave they'd hire one economist . . . Having gone from something like 150 to something like a little over 80-85-86 in the course of a decade is a pretty strong negative trend. And I think you are right.

It is over with but it's had its impact. It has made it very difficult to hire technical people and keep them at the Commission. I think things are getting better, but I guess we all have that statement about the economy. Let me just use one word, and it's planning. There is always new technology out there kind of throwing things at us. I think the public-safety community has to kind of continually monitor all that and help the Commission make decisions.

Our idea of planning is maybe one year away. When you worry about the next generation of public safety equipment, you have to look beyond one year or two years. We do indeed look to organizations like APCO to fill that gap, put the resources in, and maybe thin resources spread out over several years, but there is no substitute for worrying about where you think your communication's needs are in a few years and then how you would satisfy them. So, as I said, it's planning. . .

**Question From the Audience: One of the primary concerns of Project 25 is that we not end up in the boat that we are today at 800 megahertz with incompatible trunking systems. Will the Commission be willing to at least mandate a common air interface before a piece of equipment can be type accepted - if that is the desire of the user community when we come to you with standards from Project 25?**

Tom Stanley: It's a matter of first things first. I think if you present a large, widely coordinated plan of which a common air interface is part, we are certainly going to put forth that as your plan. I think in the NPSPAC and other areas, we very much put the burden back on industry. Now that you have spectrum, let's plan for it and common air interface. In effect we did the equivalent of that by setting aside a limited number of channels for interoperability before. It strikes me, you know, that there is a pattern there. We've done it before. And if somebody says it's important. Let's do it again. My view is, our doors should be open to that.

**Mike Borrego (from the audience): Besides spectrum congestion, one of the major problems facing most metropolitan cities today is traffic congestion . . . the problems that it creates. The Federal Highway Administration has now allocated millions of dollars to the states to begin research and development for intelligent vehicle highway systems (IVHS). But none of these**

systems is going to work very well without communications. In any of the emerging technologies and the spectrum refarming, is IVHS and the communications requirements being studied and an important part of that?

Kent Nakamura: In a word -- yes. I think that's the Orlando project you were referring to? Yes. I know there is one specifically in Orlando and I think there is one in Southern California. Yes. That is actually one of the things that is driving this whole refarming proceeding. It's so expensive to build roads now, that maybe the idea is not to try to build more roads, but try to figure out a way that you can put more cars on what you got. Driverless cars. You know the electronic navigation system tells you to turn off the highway because it's congested. All that stuff requires spectrum. And that's one of the reasons that's driving refarming.

Mark Johnson (from the audience): I'm from Alaska representing the National Association of State Emergency Medical Services Directors. My question is: When can we expect a final decision on the proposed emergency medical radio service?

Kent Nakamura: I think that's scheduled for the fall, late fall. I should add that got pushed back because there are some other things that came up that we got working on and there is just so much that we can do at any one time and when certain things get pushed to the top, other things have to slip, and that's what happened.

Norm Coltri (from the audience): I think the panel has given us a very optimistic view of what the future may look like for us, and I think some of our problems will be solved with some of the forward looking technologies that we are seeing. However, at the end of this week, I go back to New Jersey, and on my desk will be applications from many, many local government and police entities within the state that are looking for new channels today. But I can't give them.

I have to call them and tell them that their request will be satisfied with a most appropriate frequency with the sure and certain knowledge that they will cause harmful interference to existing licensees below 470, and that above 470 we have no frequencies that meet the FCC required exclusivity separation. What do I tell these applicants? How do we get by for the next year, realizing that your plans are looking much forward beyond the year.

How do we exist another year when we have no frequencies? When I do a frequency search and I find that every frequency below 470 is assigned in distances within the teens from their nearest co-channel user - how do we make through another year?

Kent Nakamura: I can't speak to your particular situation because, and I know it's repeated in a lot of other places - as I said, that's what refarming is all about. It doesn't help you this year, this month or something like that. I'm just curious as to whether you guys have done anything in terms of trying to off-load some of the voice to data or trying to go low power, or anything like that?

Norm Coltri: Unfortunately, we are in a position where we don't have a lot of funds to put into new systems, but I suspect that that's not anything new, although many of our agencies are trying to upgrade. They are putting in data systems, but that can't abandon the voice system when they put in the data system, so they are asking for another frequency to put the data on. So that doesn't help the problem.

As far as through-put, the amount of traffic that is being transmitted over the radio systems is increasing. The new technologies that we are buying are allowing us not quite to keep up. We still need additional frequencies. But the amount of through-put is going up. And for additional through-put, we need additional band widths. So going to anything other than some of the new technologies which will reduce the band width requirements for the same amount of through-put - there is very little that we can do at this point. There are other agencies coming on all the time. We have new uses for radio that are constantly coming up as Mike mentioned. There will be additional need for traffic control systems. That's being talked about in New Jersey also. We have a unique problem being in the New York and the Philadelphia metro area -- both overlapping.

We have both of the 50 mile arcs from the city of Philadelphia and the city of New York overlap in New Jersey. The population does not decrease when we go beyond 50 miles from Philadelphia. It

increases. We have several requests to the Commission now for waivers, to try to work additional systems in.

The Commission doesn't seem to be interested in working with these waivers, nor does the Commission give us an alternative. So we're really in a hard position right now to try to find solutions to assist these police agencies that are becoming very overcrowded. They are not able to respond to the calls that they're getting and we have continuous reports of interference.

**Mary Boyd:** I'm Mary Boyd with the State of Texas 9-1-1 Commission. Let's go back to PCS and PCN one more time. The data that we require with 9-1-1 is critical to the lives and property of the individuals calling us. PCN has a direct affect on us being able to deliver that service.

**Michelle,** I think you offered up the Network Reliability Council. Their plate is rather full with the seven focus groups that they are working on right now, but I would encourage you to send that to that council. I happen to serve on the focus group with 9-1-1 on that council. We will be looking at data, reliability of systems, and an alternative. This is one of the issues that I think that council needs to be involved in. And you spoke to standards and now is the time to work on that in this subject matter so we don't get caught like we did with cellular service. And I will offer up my agency, and there are about 20 other states that have statewide 9-1-1 programs that would certainly be interested in working with you to insure that we don't get caught short one more time. And then if I can just ask - we haven't talked about this - but if someone could expound on the subject of N11 - and do you see that impacting public-safety? Thank you.

**Tom Stanley:** Let me start on the last one. I don't think we're smart enough yet to know the answer to something like that. Let me go back and address your 9-1-1 question. You're absolutely right. I think we share the same kind of concerns. You know - shame on us the first time. But again, we should be whipped - if, I think, we let that same kind of thing happen with PCS, PCN. I think now we're smart enough, we've been through at least one cycle - we can begin to plan this.

A lot of the furor over PCS has had to do with the spectrum and technical standards, sharing, the plight of people who are in the bands now, should the new provider be a common carrier or private? On and on like that. What I'll call the "network features." Also, what numbering plan do we use? The entire set of problems have been set aside for, let's worry about that later.

Let's make sure that those same kind of public-safety where wider public interest concerns are not ignored when we start making network decisions. And again, it will come up when it's standards and planning time. The Commission will be in the room or in the next room. But I think this entire area will be dominated by the industries themselves and that's where that action has to take place.

**APCO President John Powell:** You already mentioned the FCC's experiment. I believe it was termed the 220 megahertz. Other people have other terms that they use to describe it. Within that action, 10 nationwide public-safety pairs were identified. And then due to the vast number of licenses, everything was frozen. If this organization were to come to you with a proposal for the use of those 10 pairs nationwide, do you think the Commission would look favorably upon releasing those for licensing for use by public safety.

**Kent Nakamura:** I can't speak for the Commissioners. I know, I think that I can say the Bureau would be pleased for you to come forward and for us to look at it. I should add, however, that just Friday I was told that an appeal had been filed in the United States Court of Appeals for the District of Columbia Circuit of that decision, so it may or may not be staged. I don't know. I'd be happy to look at it - more than happy.

With that, Moderator Lane thanked the panelists and audience, and the session ended.

**APCO COUNSEL ASSISTANT HONORED FOR THEIR EFFORTS:** In introducing Moderator John Lane, APCO's counsel, at the Washington Regulatory Panel discussion, APCO President Ronnie Rand noted that Lane is President of the Communications Bar Association, "which is a highly prestigious position, which indicates the level of respect that his peers would have for him. . . . And he has done so much for us for several years now . . . Some of us think that we pay him very well. He probably thinks we pay him very poorly! But, he is paid for his services, but that's not one iota of the work that he gives us,

both in his honorable way he conducts himself, his concern for our interests. You can't buy that kind of concern. You can buy an hourly wage or an hourly work, but you can't buy the heartfelt concern that he has shown for our Association. Those things can't be measured in dollars. And although this is a small token, I would like to present to John Lane APCO's Presidential Award."

Lane, in accepting the award, said, "I'll just say thank you very much. It's totally unexpected and I accept it with great pride and I'll display it prominently on the wall of my office." A Presidential Award also was presented to Robert M. Gurs of Lane's office. Rand said, "His work, on our behalf, has just simply been outstanding, and we're so pleased with him." Gurs said, "Thank you very much. It's been a real pleasure working for APCO. Sometimes lawyers and clients don't get along that great and you do the work because you have to. But, I really enjoyed working for you guys. Thank you."

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